

CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION  
ENERGY EFFICIENCY COMMITTEE

WORKSHOP  
TARRIF EXEMPTION APPLICATIONS

CALIFORNIA ENERGY COMMISSION  
HEARING ROOM A  
1516 NINTH STREET  
SACRAMENTO, CALIFORNIA

FRIDAY, SEPTEMBER 5, 2003

10:00 a.m.

Reported By:

Alan Meade

Contract No. 150-01-005

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

STAFF PRESENT:

Scott Tomashefsky, Workshop Moderator

Daniel Tunnicliff, Project Manager

Darcie L. Houck, Staff Counsel

ALSO PRESENT:

Manuel Alvarez, Southern California Edison

Kevin Duggan, Capstone Turbine Corporation

Douglas P. Hansen, San Diego Gas and Electric

Carolyn M. Kehrein, EMS

Steven C. McClary, MRW & Associates

Katherine Manwarren, Pacific Gas and Electric  
Company

Clyde S. Murley, Grueneich Resource Advocates

Harold M. Romanowitz, Oak Creek Energy Systems,  
Inc.

Chuck Solt, Lindh & Associates

Amy B. Tessler, Pacific Gas and Electric

Gerome G. Torribio, Southern California Edison

Chris Tufon, Pacific Gas and Electric

Daniel E. Tunnicliff, Southern California Edison

Elizabeth G. Westby, Alcantar & Kahl LLP

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## P R O C E E D I N G S

MODERATOR TOMASHEFSKY: Okay. Good morning.  
It's still morning so that's a good sign.

MR. ALVAREZ: But is it still good?

MODERATOR TOMASHEFSKY: Well, you can make  
the determination in about an hour and a half.

Welcome to Energy Commission Staff Workshop  
as part of the Exit Fee Exemption proceeding 03-  
CRS-01. My name is Scott Tomashefsky. I'll be  
your host for the next six hours or shorter if we  
can get that done.

And to my left is Darcie Houck, our staff  
attorney assigned to this proceeding.

I guess in starting off there are about not  
30 documents this time, but there's only five  
documents on the table in the back upon which  
three of them represent the regulations that were  
submitted and are now published by the Office of  
Administrative Law. Draft Regulations were  
published on August 29th and you should have on  
the back table, just to make sure, the Notice of  
Proposed Action, the Initial Statement of Reasons,  
and the Express Terms, which are the regulations.  
And just for logistical purposes August 29th  
started the 45-day clock so we have official

1        comments on the regulations due October 20th with  
2        an adoption hearing which basically we had a  
3        Commission business meeting scheduled for October  
4        22nd however we're not going to -- we're going to  
5        give parties an opportunity to at least have a  
6        chance to discuss concerns with the Renewables  
7        Committee so we're going to schedule a Renewables  
8        Committee hearing for September 24th which is a  
9        Wednesday here at the Commission.

10           MR. ALVAREZ:    September 24th?

11           MODERATOR TOMASHEFSKY:    Yes.

12           And we will send out the hearing notice  
13        sometime early next week since we've got two-week  
14        statutory requirement.    We haven't drafted up the  
15        hearing yet, but we've cleared calendars so we're  
16        going to use that as an opportunity to give the  
17        Committee a status report on where we are here,  
18        just kind of give a brief overview of where the  
19        regs are and let parties have an opportunity to  
20        express their concerns or tell us how wonderful a  
21        job we've done with them so far.    So we'd prefer  
22        the latter but we expect the former.

23           MODERATOR TOMASHEFSKY:    If we stick a mike or  
24        two sort of back in that area would that work for  
25        you?

1 THE REPORTER: Only if we handed it around  
2 but it might be better if they'd --

3 MODERATOR TOMASHEFSKY: Okay.

4 MR. ALVAREZ: Manuel Alvarez, Southern  
5 California Edison.

6 I guess just a procedural question. Since  
7 you filed the regulations with the Office of  
8 Administrative Law, if people have comments, do  
9 they have to file them here and there? No? Just  
10 here?

11 MS. HOUCK: Just with the Commission.

12 MR. ALVAREZ: Okay.

13 MR. ALVAREZ: That's all I needed.

14 MODERATOR TOMASHEFSKY: Okay. Okay. They  
15 can just hand it to you and you can bring it over  
16 here.

17 Okay. So for today's discussion I just want  
18 to give you a quick update on where we are with  
19 the NOPA. Though we just talked about procedural,  
20 I just want to give you a couple of nuances about  
21 what might or might not be different in terms of  
22 what we discussed and what was actually filed.  
23 Then we'll go through -- we'll have a continuation  
24 or review of the exemption forms. We're not going  
25 to go in a line-by-line look at this but we'll

1 look at it in terms of concerns and seeing how far  
2 we have to go and we'll just work through that,  
3 get some comments and then we should be done. So,  
4 I mean, we have the room scheduled all day. I  
5 would like to get done by 12:00 if we could, but  
6 we'll see how that goes. So if anybody really  
7 wants to stay another three hours we can probably  
8 find time to discuss things but for -- shoot for  
9 12:00 then and then you can get back to the  
10 airports and things like that.

11 Any concerns, questions with the agenda or  
12 what we're going to get done this morning?

13 So again the Renewables Committee will have a  
14 hearing on the 24th. My hope is not to have the  
15 workshop that we have scheduled for the 15th so  
16 that's my expectation because we do have two  
17 workshops scheduled today and on the 15th to kind  
18 of -- continuance here but hopefully we'll be far  
19 enough along where we won't have to actually have  
20 that workshop.

21 On the back table also was a one-page status  
22 of the rule making which basically gives you the  
23 schedule of where things are just to kind of  
24 review that just for a minute. Of course we  
25 initiated the LAR May 28th and we've had a series

1 of workshops. We had one staff workshop on June  
2 6th. We had a Renewables Committee workshop on  
3 the 16th of July and another staff workshop for  
4 this application form on the 13th.

5 Assuming the regs are adopted on October  
6 22nd, we would submit final documents to the  
7 Office of Administrative Law early November and  
8 then they would be approved potentially early part  
9 of December so our expectation would be that we'd  
10 have these regs in place by first part of January.  
11 So all these outstanding issues, the forms dealing  
12 with establishing the cue dealing with setting up  
13 the web, all that stuff. All those stars have to  
14 align around the 1st of January so the  
15 regulations, at least in terms of the tariff form,  
16 we have flexibility within the regs to continue  
17 working on this form but -- even after the regs  
18 are adopted.

19 Yes, sir?

20 Can you come up and -- we're going to have to  
21 deal with that. Just --

22 MR. WILSON: Boyd Wilson, Robertson Bryan,  
23 Incorporated.

24 Just a quick question. Based on this  
25 projected schedule do you foresee any delay at the



1 CPUC at all?

2 MODERATOR TOMASHEFSKY: Well, in terms of  
3 establishing the caps there are some outstanding  
4 issues that the PUC needs to resolve, but from the  
5 standpoint of establishing the megawatt cap it  
6 should be independent of that. There's issues  
7 related to approving tariffs and maybe, Dan and  
8 others, you can kind of give us an updated where  
9 some of those tariff proposals are as far as where  
10 they are in the approval process because you don't  
11 have tariffs that have yet been approved to --

12 MR. TUNNICLIFF: No.

13 MODERATOR TOMASHEFSKY: -- charge the CRFs.

14 MR. TUNNICLIFF: All the utilities filed --

15 MODERATOR TOMASHEFSKY: Can you hear him at  
16 all?

17 THE REPORTER: No.

18 MODERATOR TOMASHEFSKY: Okay. Let's move  
19 that up a little bit. We're going to catch you  
20 guys jumping.

21 MR. TUNNICLIFF: We filed our tariffs, but to  
22 my knowledge I don't have a time line as to when  
23 those are going to be approved.

24 Katherine?

25 MS. MANWARREN: We've asked but we're still

1 not --

2 MR. TUNNICLIFF: Doug?

3 MODERATOR TOMASHEFSKY: We're going to get  
4 that. I'll tell you what we're going to do. We  
5 have one of these.

6 (Indicating a wireless microphone)

7 MODERATOR TOMASHEFSKY: The phone is working.  
8 Does that work? That should work. Okay. We're  
9 going to just let this run around. So who wants  
10 to hold it first? Who have is the next person to  
11 speak can pick it up and then hold it until the  
12 next person speaks.

13 Okay. So there's some outstanding issues  
14 that the PUC needs to deal with in terms of having  
15 tariffs put in place and there are some other  
16 issues that are pending, some resolutions in the  
17 PUC, but in terms of what we need to do, we need  
18 to have a process where there's a cap that really  
19 established and people can file for their  
20 exemptions so that's our objective here.

21 Okay. Any other questions at all?

22 Okay. In terms -- just to walk through a  
23 little bit of the NOPA, and I'll give you the very  
24 abridged version of what we have here. Basically  
25 what the Renewables Committee had discussed on

1 July 16th and what we submitted as largely -- it's  
2 not different than the context of the process for  
3 dealing with the CRS exemption. What it does do  
4 is it has a little bit more language that ties it  
5 to some of our data collection authority that we  
6 have so there is a connection with the development  
7 of our Integrated Energy Policy Report under SB  
8 1389 so there's some language in there that shows  
9 up that may not have been there in earlier  
10 versions of the regs that we had reviewed but in  
11 terms of the process there should not be any  
12 significant changes at all.

13 Just a couple of things to note in terms of  
14 some of debate we have had. One of the issues  
15 that we've talked about is the ability of a  
16 customer who is submitting an exemption request to  
17 not have that information go to the utility.  
18 We've debated that fairly extensively. It's been  
19 one of our hot topics, if you will, and the way  
20 the regulations are set up there is a requirement  
21 to submit the application to the utility and also  
22 to us and we're going to keep it that way.

23 There was some concern about having the  
24 application be tied to the interconnection  
25 application which our regs are not calling for.

1     They basically separate those two processes but  
2     the information itself, the way its designed,  
3     needs to go to both utility and us with a 10-day  
4     reporting requirement to the utility so -- and  
5     that's been the position of the committee is that  
6     we need to make this thing administratively  
7     workable so from that standpoint if there are  
8     issues related to whether or not the utility will  
9     use that to some advantage from a competitive  
10    standpoint I think what we would do is just defer  
11    that issue to the PUC and if you take into context  
12    the way the PUC dealt with the notion of utility  
13    and affiliate transactions, the governance between  
14    the behavioral actions between the two entities,  
15    it's really an issue that's beyond the scope of  
16    our proceedings so we're going to go on that basis  
17    and if there are some -- there are some concerns  
18    about that, what we could do potentially is have a  
19    section within the decision that ultimately gets  
20    issued by the Commission which has some areas of  
21    concern or guidance that the PUC should consider  
22    so as we adopt the regulations we can provide some  
23    additional input to the PUC in terms of what we  
24    think are issues that have come up in our process  
25    that they should consider but are beyond the scope

1 of our objectives and projects here. So hopefully  
2 that will provide some clarification.

3 In terms of other areas, the other thing that  
4 also comes out of the process for the exemption  
5 request is we have found under the provision that  
6 the exemption forms are being developed as a  
7 catchall for all types of exemptions and we  
8 basically said, well, let's go ahead and do that  
9 as a starting point but recognize that we may have  
10 to strip out all the other exemption requests that  
11 go along with it and we had argued about whether  
12 there was some synergies associated with just  
13 having one exemption request form which applies to  
14 standard charges and all those other things.

15 In thinking through that, since a lot of  
16 those requests are really beyond the scope of what  
17 we're supposed to do here, we're supposed to look  
18 strictly at the CRS exemptions that -- the forms  
19 that we're responsible for developing should focus  
20 strictly on those type of things so as we redraft  
21 this, we'll likely have to strip out the portions  
22 that are not related to CRS. I don't think that  
23 would be a major undertaking because I think the  
24 way we've designed it, at least debated it, it's  
25 something that can be easily stripped out but

1 we'll have to deal with it strictly from a CRS  
2 standpoint and nothing else other than that.

3 That was really the only two that I could  
4 think of off hand.

5 Did you think of any? Is that it?

6 (Ms. Houck shakes head.)

7 MODERATOR TOMASHEFSKY: Okay. So I know some  
8 of those determinations probably won't necessarily  
9 leave you walking out of the room saying, well, we  
10 got everything we wanted. Well, part of the  
11 process doesn't necessarily result in everybody  
12 getting what they want but something that's  
13 workable. So just kind of keeping that in mind  
14 then if I just kind of got onto the 75 to 80  
15 percent threshold and if you can get three  
16 quarters of what you want then you're probably  
17 doing okay. So, you know, we can't make everybody  
18 happy but we don't want to make everybody  
19 seriously unhappy so something that's workable is  
20 really the goal here. So that's where we're  
21 going.

22 At this point why don't I turn it over to Dan  
23 and Katherine. Perhaps you can kind of walk us  
24 through some of the modifications that you have  
25 worked through in terms of dealing with this

1 latest version and we can kind of go from there.

2 Do you have a question?

3 MS. TESSLER: Just one.

4 Scott, I just want to make sure what you  
5 handed out at the table, this is what was filed to  
6 the -- last week -- this is the revised ones?  
7 There's no heading or date.

8 MODERATOR TOMASHEFSKY: That's right. That  
9 is the one that was filed and basically the  
10 official regs that were submitted have a reference  
11 to our web site and so that is what you'll find if  
12 you download the express terms.

13 MS. TESSLER: Okay.

14 MODERATOR TOMASHEFSKY: So, yeah, there's no  
15 date on that though.

16 MR. SOLT: At the last meeting --

17 THE REPORTER: Would you please state your  
18 name for the record.

19 MR. SOLT: Chuck Solt, Lindh & Associates.

20 At the last meeting you had indicated the  
21 desire to get someone from ARB here today; is that  
22 going to happen or is that scrubbed?

23 MODERATOR TOMASHEFSKY: Good question.

24 Physically it's not going to happen.

25 However, I do have a response back from ARB so

1 I'll hand that out.

2 MR. SOLT: Okay.

3 MODERATOR TOMASHEFSKY: And they're working  
4 on some proposed regulations where it's kind of  
5 zapping all of their terms.

6 But let me go ahead and hand this out and  
7 then I guess what I'll do is I'll read their main  
8 points so we have it in the record. Let's do  
9 that.

10 MR. SOLT: And the other question was at the  
11 last meeting, Real Energy had presented some  
12 information. You asked for some more formalized  
13 presentation of material from them; did you  
14 receive that and is taht going to be part of  
15 today's discussion.

16 MODERATOR TOMASHEFSKY: No, it's not. I have  
17 not received anything except for the sheet of  
18 paper that Real Energy had at the last meeting.  
19 And in terms of the process itself, we had debated  
20 that. The process that the Committee was amenable  
21 to at the July 16th and also the June 16th -- the  
22 June 6th workshop so I have not received anything  
23 else. If I do receive something, I will forward  
24 it along.

25 Okay. Pass this.



1           Okay. So just to read this in so we have it  
2   in the record. And I'll just start with the --  
3   that they agree that they'd take a look at it. It  
4   says, comments are the following. It says,  
5   although we have not yet had to deal with the CHP  
6   application in our DV certification program,  
7   calculations in part 6 of your document, which was  
8   the exemption request for that we posted, appears  
9   to be correct. In parentheses, efficiency equals  
10  total net usable energy out, total energy in. The  
11  application process appears to be self-certifying.  
12  The application attests to the fact that he's  
13  meeting the requirements without submitting any  
14  data. This is certainly not the case when  
15  applicants seek certification from ARB. They  
16  submit the data, we analyze it and determine if  
17  certification is warranted. By referencing the  
18  2007 CARB emission limits for distributed  
19  generation, I assume you're including the  
20  applicable protocol for meeting those limits  
21  including source testing at 50 percent, 75 percent  
22  and 100 percent load. Without meeting all of the  
23  conditions of the ARB DG certification reg, can a  
24  generating facility truly be considered to meet  
25  the 2007 requirements? And they said that they

1 would be available to discuss these things but  
2 their participation is quite limited just in terms  
3 of their staff constraints.

4 So that's their response to that. I don't  
5 know if you have any response to that, Chuck. If  
6 you can just come up to the -- why don't you just  
7 take the mike so you can just sit there.

8 MR. SOLT: Actually, I think it's a wonderful  
9 answer but it doesn't respond to the particular  
10 item that you brought up the last time when we  
11 were meeting about -- it doesn't say that you're  
12 to meet 2007 requirements. It says what you're  
13 supposed to do is meet the levels, note while  
14 you're operating, and as such you -- it implies  
15 that you have to keep taking efficiency  
16 information throughout the operation rather than  
17 simply -- you can apply a certified unit that  
18 passed the ARB and if you aren't operating it  
19 because of the way that the regulation was  
20 written, it might not be in compliance and so it's  
21 a mess.

22 MODERATOR TOMASHEFSKY: Okay.

23 MR. SOLT: You remember we discussed that  
24 last time.

25 MODERATOR TOMASHEFSKY: Do you have any

1 suggestions on how to resolve that or is that such  
2 a problem that --

3 MR. SOLT: Meet with Mike.

4 MR. TUNNICLIFF: The ARB; right?

5 MODERATOR TOMASHEFSKY: That's right.

6 Basically meet with the ARB.

7 So, okay, so we go ahead and meet with them  
8 and so what do you talk about? So I'm looking for  
9 guidance from you if that's --

10 Take the mike with you so you don't have to  
11 keep getting up. Then if Kevin wants to say  
12 anything then he'll be able to take it from you.

13 MR. SOLT: This -- you know, reason would say  
14 that if you have a certified unit, that you meet  
15 2007 requirements, that you should be accommodated  
16 but the decision that we're dealing with doesn't  
17 say that in detail when you really read it the way  
18 that she read it last time it really doesn't say  
19 that and I think it's just an oversight and I  
20 don't know -- I would imagine you're going to have  
21 to go back to the Utility Commission to get a  
22 clarification. What they really meant was you're  
23 supposed to meet the requirements of the 2007, not  
24 that you're supposed to meet the levels during  
25 operation.

1 Right?

2 MS. HOUCK: Yeah.

3 MR. SOLT: I mean you are the one that cost  
4 me all the sleep by bringing this up the last  
5 time. But I would suspect you got to go back to  
6 the Utility Commission to get clarification but  
7 I'm not an expert on that; you are.

8 MODERATOR TOMASHEFSKY: Okay.

9 You guys have any thoughts about that or --

10 MR. TUNNICLIFF: What we've done and we  
11 mentioned it last time --

12 Dan Tunnichliff from Southern California  
13 Edison.

14 What we mentioned last time, whatever  
15 requirements the ARB sets out is what we would use  
16 for this form and in this context and we propose  
17 using in that. They are definitely the ones  
18 responsible for that language and they're the ones  
19 that know what they intended by that so whatever  
20 specifications they lay out, we'll have the in  
21 form and, you know, we're in agreement that we'll  
22 probably have them, someone available from CARB,  
23 come talk to us or at least explain it -- how  
24 we're all to do that.

25 MR. SOLT: And not to belabor the point but

1 if you get Mike in, if you had him here right now,  
2 it's my assumption that what he would say to you  
3 is their requirement is that the small units be  
4 certified and so the Capstone unit is certified  
5 and then as far as ARB is concerned you can  
6 install the Capstone units and use them and they  
7 meet the ARB requirements but according to her  
8 reading, and, you know, I read it the same way now  
9 that she points that out to me, that wouldn't  
10 necessarily meet the decision and so the ARB can't  
11 tell you what it is because they didn't write the  
12 decision, the PUC did.

13 MODERATOR TOMASHEFSKY: Okay.

14 Any other comments on that?

15 You want to take that microphone.

16 MS. MANWARREN: Katherine Manwarren, Pacific  
17 Gas and Electric.

18 The formulas that the utilities put together  
19 in this forum was a good faith effort to get the  
20 process moving based on party established  
21 practice. So it's intended to be a working  
22 document based on what we already use.

23 MODERATOR TOMASHEFSKY: Okay.

24 MS. MANWARREN: And from our reading of the  
25 CARB requirements.

1 MODERATOR TOMASHEFSKY: Okay. All right.

2 So assuming what we have in the draft  
3 application is appropriate, that takes the --  
4 meeting the requirements as opposed to the  
5 operating in those requirements; is that right?

6 MR. SOLT: That's right. If you're talking  
7 about the larger units, they don't have  
8 certification. If you're talking about the  
9 smaller units, the certification program, you get  
10 the units certified and as far as ARB is  
11 concerned, that's it, you're done.

12 MODERATOR TOMASHEFSKY: Okay.

13 So now from our standpoint then, so if we get  
14 to a point and I look at October 22nd as kind of a  
15 target date, if these things are adopted and we  
16 have a series of -- hear some concerns --

17 MR. SOLT: Um-hmm.

18 MODERATOR TOMASHEFSKY: -- that need to be  
19 addressed, are we in a position where we can  
20 interpret it this way and ask for clarifications?

21 MR. SOLT: I would do it that way.

22 MODERATOR TOMASHEFSKY: Okay.

23 MR. SOLT: Because I think it's -- ARB was  
24 very clear in what they wanted.

25 MODERATOR TOMASHEFSKY: Okay.

1           MR. SOLT: And it was just the way that  
2           somebody at the PUC phrased it that raises this  
3           compliance question and so it ought to be the PUC  
4           that says, well that's not what we really meant.  
5           What we meant was you've got to meet the 2007  
6           requirements.

7           MR. TUNNICLIFF: Well, it's what the -- what  
8           the PUC phrased but the PUC is citing the Public  
9           Utilities Code which put that definition in play.

10          MS. HOUCK: That's --

11          MR. SOLT: Is that the Code that said --

12          MS. HOUCK: Yes --

13          MR. SOLT: Excuse me. I apologize.

14          MS. HOUCK: Yeah, it's 353 point --

15          MR. SOLT: Two.

16          MS. HOUCK: -- 2 is what they site.

17          MR. SOLT: I apologize. You're correct.  
18          It's three fifty -- it's the point 2 paragraph  
19          that has the odd phrasing that raises the question  
20          about compliance.

21          MODERATOR TOMASHEFSKY: Okay.

22          So if we go under the notion that we're  
23          assuming that it meets the requirements but we ask  
24          for clarification on that --

25          MR. SOLT: It meets the ARB requirements.

1           MODERATOR TOMASHEFSKY: Right. Yeah.

2           MR. SOLT: That -- that should be what you're  
3 looking for and that -- we're assuming that that's  
4 what the PUC really meant but the PUC now has a  
5 conflict that they ought to resolve.

6           MODERATOR TOMASHEFSKY: Okay.

7           Is there any concern about that  
8 interpretation?

9           Come on up be Manuel.

10          MR. ALVAREZ: I'm not clear exactly what you  
11 mean by the conflict so can you explain that?

12          MR. SOLT: Surely. What it -- I don't have  
13 the words in front of me. If you can read them --

14          MR. ALVAREZ: Yeah.

15          MS. HOUCK: And thing to note since the  
16 Public Utilities Commission was citing a Public  
17 Utilities Code section, they may only be able to  
18 clarify to a certain extent since the legislature  
19 obviously developed this language and if they have  
20 a particular purpose for wanting to use that code,  
21 we'll have to talk to them and figure that out.  
22 But the language states that it produces zero  
23 emissions during its operation or produces  
24 emissions during its operation that are equal to  
25 or less than the 2007 State Air Resource Board



1 emission limits for distributed generation except  
2 that technologies operating by combustion must  
3 operate in a combined heat and power application  
4 with a 60 percent system efficiency on a higher  
5 heating value.

6 MR. SOLT: Okay. So what it says is that  
7 when it's operating, it must meet the levels. It  
8 doesn't say it needs to meet the ARB standard.  
9 The ARB standard says you've got to be certified.  
10 So he takes his unit in, he gets it certified by  
11 the ARB and they say, okay, you're done, go sell  
12 them anyplace you want to, we're happy. But this  
13 says but when you're running it, you have to meet  
14 the pounds per million -- meet the pounds per  
15 megawatt hour limit which is an output base  
16 standard which is dependent on efficiency so if  
17 you aren't recovering enough heat or whatever,  
18 you're not in compliance with this in spite of the  
19 fact you're meeting the ARB's requirements. If  
20 they had simply said in the Code section that you  
21 have to meet the ARB certification standards or  
22 that you have to be using a unit certified to 2007  
23 standards, it would have been cool, been done.

24 MODERATOR TOMASHEFSKY: From the stand point  
25 of the administration, I mean, doesn't -- that

1 creates a big problem now in terms how you monitor  
2 -- I mean, it's a matter of do you just check it  
3 off and you're good to go, or do you have to  
4 monitor this thing basically on a daily basis.

5 MR. SOLT: Well, the way the ARB set it up is  
6 once the guy has gotten his unit certified which  
7 is an expensive, complex process, but once that's  
8 done there is no more compliance verification.  
9 Nobody needs to do anything. The local district  
10 doesn't need to do anything, the applicant doesn't  
11 need to do anything to demonstrate compliance. He  
12 is using a compliant unit. But the way that it's  
13 worded in 353.2, you've got to monitor your heat  
14 recovery, and you've got to monitor your fuel  
15 consumption, and you've got to do all the  
16 calculations, and do the 12-month averaging and  
17 all that kind of jazz and then I assume report it  
18 to somebody so that they can verify that in fact  
19 you're really operating in compliance.

20 MR. TUNNICLIFF: Yeah because I think this is  
21 related to a specific type of technology that  
22 meets the definition of ultra clean and low  
23 emission and is not tied whatsoever to DG  
24 certification by CARB. It's installed January 1 -  
25 - by January 1, 2003 through December 31st, 2005

1 and then the definition --

2 MR. SOLT: 2006, but go ahead.

3 MR. TUNNICLIFF: Two thousand --

4 MS. HOUCK: Well, the decision says December  
5 31st, 2005.

6 MR. TUNNICLIFF: So it is tied to a specific  
7 type of technology that meets this definition and  
8 has nothing to do with distributed generation and  
9 through that certification process, from my  
10 reading of the definition.

11 MR. SOLT: But they did that you're supposed  
12 to meet the 2007 levels. If they said if you're  
13 supposed to meet the 2007 requirement, that would  
14 be cool; they said "levels" and that's --

15 MR. TUNNICLIFF: Right. So I think we're  
16 talking about a couple of different terms. This  
17 is a specific definition for ultra clean and low  
18 emissions and it's not related and tied to the DG  
19 certification process that CARB lays out.

20 MR. SOLT: So if you want to argue that he  
21 shouldn't make the assumption that I had  
22 suggested, go ahead.

23 MR. TUNNICLIFF: I don't want to argue that  
24 but I don't want to be fixated on those two are  
25 tied. I think it's a specific definition that the

1 Commission laid out as a criteria for certain  
2 exemptions for technologies that meet these things  
3 and whether or not those things are tied is  
4 another story. I think all of these things have  
5 to be addressed but I think we're confusing a  
6 couple of different issues there.

7 MODERATOR TOMASHEFSKY: Okay.

8 I guess in any event we still need  
9 clarification on that. And I guess the question I  
10 would have is what type of an impact would it have  
11 on this type of application form. I mean, do we  
12 still have enough information in here so that you  
13 can make the determination with some clarification  
14 so we need to make some assumption on how we're  
15 going to interpret particular portions of that and  
16 seek clarification and if there is some  
17 clarification that requires a modification, we can  
18 go ahead and do that.

19 MR. SOLT: I think you can proceed with the  
20 form the way you've got it right now regardless of  
21 which one of the two interpretations I want to  
22 take. Where the issue comes in is how do you  
23 demonstrate compliance and if you get the one way,  
24 the answer is you don't need to, there's no  
25 requirement to. And if you do it the other way,

1       then it's up to the -- whoever, I guess the Energy  
2       Commission or the PUC to develop a mechanism for  
3       tracking fuel consumption and heat recovery and  
4       all those other sorts of things that demonstrate  
5       continuous compliance and what do you do if the  
6       guy fails to comply?

7             There you go.

8             MODERATOR TOMASHEFSKY:   Okay.

9             MS. MANWARREN:   Scott?

10            MODERATOR TOMASHEFSKY:   Yeah.

11            MS. MANWARREN:   Another document that we read  
12       through that was kind of a guidance for us is the  
13       Air Resources Board put out an executive summary  
14       and technical support document dated September  
15       2001 and it addresses proposed regulation for  
16       establish -- to establish a distributed generation  
17       certification program and it answers a lot of  
18       these questions that are being raised and goes  
19       into a lot more detail than we have so far so that  
20       might help folks in understanding a little bit  
21       more clearly what CARB is after.

22            MODERATOR TOMASHEFSKY:   Did you come to any  
23       conclusions when you looked through that at all?

24            MS. MANWARREN:   We pretty much captured it in  
25       our form, basically.

1 MODERATOR TOMASHEFSKY: Okay.

2 MS. MANWARREN: And we admit that -- clearly  
3 that it's pending clarification from CARB. This  
4 was dated September 2001. Obviously things have  
5 changed since then but this is the most current  
6 document available from CARB on the web.

7 MODERATOR TOMASHEFSKY: Okay.

8 That's part of their series of documents  
9 that's posted; right then? Okay.

10 MR. SOLT: It's the certification program --

11 MODERATOR TOMASHEFSKY: Okay.

12 MR. SOLT: -- that we're talking about.

13 MODERATOR TOMASHEFSKY: That's Appendix C you  
14 said? Was it one of the appendices?

15 MR. SOLT: Which appendix did you say?

16 MS. MANWARREN: It's the Executive Summary  
17 and Technical Support, dated September 2001.

18 MODERATOR TOMASHEFSKY: Okay.

19 MS. MANWARREN: There's someone over here in  
20 the back that wants to make a comment.

21 MODERATOR TOMASHEFSKY: If you sit -- grab --  
22 sit around Chuck and we'll -- pass it along.

23 MR. WILSON: Scott, just a quick question.

24 In terms --

25 MS. HOUCK: Could you state your name for the

1 record, for the court reporter.

2 MR. WILSON: Again? I mean --

3 MS. HOUCK: Yes.

4 MR. WILSON: I need to state it every time  
5 before I speak?

6 Boyd Wilson, Robertson Bryan, Incorporated.

7 MODERATOR TOMASHEFSKY: Till he gets used to  
8 you.

9 MR. WILSON: Okay.

10 Just a quick question. The equipment that  
11 has been certified by CARB, is that available on a  
12 web site, either CARB's web site or is it the CEC  
13 plan to list that on your web site once it's  
14 approved?

15 MODERATOR TOMASHEFSKY: It --

16 MR. SOLT: It's listed on the CARB site.

17 MR. WILSON: On the CARB site.

18 MODERATOR TOMASHEFSKY: Yes.

19 MR. WILSON: The reason I'm asking is just  
20 very simple. If we have -- we represent water  
21 districts, irrigation districts and if they're  
22 planning on going through this process it would be  
23 nice to be able to go to a web site and deal with  
24 those vendors that have already been preapproved.

25 MODERATOR TOMASHEFSKY: And Chuck, there's

1 four different units that are on there right now;  
2 aren't there?

3 MR. SOLT: Yeah. A couple of few cells and  
4 the two Capstone units are the only ones that are  
5 certified right now.

6 MODERATOR TOMASHEFSKY: Right. And the fuel  
7 cell one -- oh, I'm sorry.

8 MR. DUGGAN: There are a couple of Capstone  
9 units, both of them; is that correct? I believe  
10 they're both --

11 MR. SOLT: No, one.

12 MR. DUGGAN: Okay he says one and a couple of  
13 fuel cell units. I saw this morning there were  
14 four on there and --

15 MR. SOLT: Ingersol Rand --

16 MR. DUGGAN: Oh, yeah, Ingersol Rand or UTC,  
17 one of those. I think maybe there are five.  
18 There are several fuel cells and then the one  
19 Capstone.

20 MODERATOR TOMASHEFSKY: But actually the fuel  
21 cells are the only ones that are the '07  
22 certification. I think the other ones have the  
23 2003 certification.

24 Okay. So you can find that out on the ARB  
25 web site and --



1 MR. DUGGAN: Um-hum.

2 MODERATOR TOMASHEFSKY: And if you can't  
3 figure out how to get there I think you can link  
4 through ours.

5 MR. SOLT: But going back to the way 353.2 is  
6 worded, you don't need to use a certified unit and  
7 if you do, it doesn't really buy you anything.

8 MR. TUNNICLIFF: Right. I think that the  
9 certifications seem to be, you know, one part is  
10 one level for certain purposes but for a departing  
11 load decision it's efficiency based and  
12 operationally based and grants various exemptions.

13

14 MODERATOR TOMASHEFSKY: Okay.

15 MR. TUNNICLIFF: Not whether or not something  
16 is certified. Unless they come up with  
17 certification protocol for the 2007.

18 MR. SOLT: They have it.

19 MODERATOR TOMASHEFSKY: Okay.

20 MS. HOUCK: Just actually the document that  
21 Katherine referenced, it's actually stationary  
22 source division branch assessment branch July 2002  
23 is the date. It's the guidance for permitting of  
24 electrical generation technologies as approved by  
25 the Air Resources Board on November 15th, 2001.

1           MODERATOR TOMASHEFSKY:   Okay.

2           I guess what we'll do is we'll take a look at  
3   that and we can raise it if --

4           MR. SOLT:   It doesn't change anything.

5           MODERATOR TOMASHEFSKY:   Okay.

6           So in the context of this form development,  
7   not an issue.   Okay.   Okay.

8           Dan, you just want to walk through some of  
9   the general changes.

10          MR. TUNNICLIFF:   Okay.

11          For those of you who weren't here last time,  
12   we went line by line through the form and I don't  
13   think that has -- just so they're warranted -- we  
14   listened to and took quite a few of the comments  
15   and made the revisions that we thought were  
16   pertinent.   You can take a look at -- part 1  
17   hasn't changed a whole lot other than we had a  
18   glossary section, we had some debate whether or  
19   not we wanted to retain that.   We moved the  
20   glossary to an attachment 1.   Didn't spend a lot  
21   of time other than for the fact of taking out  
22   technical requirements.   Some glossary items that  
23   you might find the rule 21 process.   We tried to  
24   limit it to things that are applicable to this  
25   whole process.   We didn't go through and matching

1 up the definitions exactly, however, we just  
2 wanted to make sure that we had a place holder.  
3 We felt it was still valuable as an attachment.

4 We added on the second page -- we added  
5 section E talking about the time lines that were  
6 required to provide certain information within 10  
7 business days until they will notify in writing of  
8 the provisional characterization, conditions that  
9 must be met for final characterization, on  
10 description of the charges that the customer of  
11 the generating facility will be exempt from and we  
12 considered this language and it -- we could take  
13 it out or keep it or modify it. If there is a  
14 problem and if you disagree with the utilities  
15 provisional characterization, contact the CEC to  
16 impose whatever sort of dispute resolution process  
17 or rely upon existing processes. I don't really  
18 know if you feel that that's appropriate, but I  
19 wanted to make sure that it's up front and  
20 available for customers and applicants to take a  
21 look at and have a way of resolving any issues.

22 MODERATOR TOMASHEFSKY: Okay.

23 Any questions with that --

24 Turn around. Take the mike.

25 MR. DUGGAN: Kevin Duggan with Capstone

1 Turbine Corporation.

2 My question is about the definition departing  
3 load and subsequently who has to fill out this  
4 form. I see a definition listed in this document,  
5 but in the decision from the PUC there were some  
6 things that were excluded from the definition of  
7 departing load, things like new load and expansion  
8 of load. And so I'm not sure whether people who  
9 are doing something that involves new load or  
10 things that are listed as not departing load,  
11 whether those people need to file a form so that  
12 they can be acknowledged as not being departing  
13 load or whether those people themselves decide  
14 that what they're doing is not departing load and  
15 therefore they are not a part of this process.

16 MR. TUNNICLIFF: One part that -- I'll  
17 reiterate. One thing that we did, we left in and  
18 retained the definitions and they're not  
19 necessarily consistent with what's in the  
20 decision. We're using it more as a place holder  
21 right now but whatever decision and whatever  
22 definition that's related to departing load will  
23 be the definition that gets attached to this  
24 glossary. So to answer your question --

25 You want to answer that, Katherine?

1 MS. MANWARREN: You had an excellent point.  
2 New load is an issue and we have filings in front  
3 of the Commission now, the PUC, to resolve those  
4 issues. So that's something that we're working on  
5 and recognize as an issue. So here again we can  
6 work with reform to allow for the questions around  
7 new load, expanded load.

8 MR. TUNNICLIFF: And it seems to be more  
9 outside of the scope of collecting this  
10 information or carrying out this process because  
11 all of the utility -- the three utilities have all  
12 of our file tariffs that include these issues --

13 MS. MANWARREN: Right.

14 MR. TUNNICLIFF: And, you know, we had to  
15 respond to the protests and comments related to  
16 what we filed so that is, I think, beyond the  
17 scope of our ability to resolve those issues.

18 MS. HOUCK: For purposes of our regulations,  
19 we're looking at the issues that the Commission  
20 dealt with in its decision regarding CRS  
21 exemption. Those appeared to be looking at load  
22 that was currently being served by the utilities  
23 and then -- in departing. In issuing our express  
24 terms it appears that we went back to change the  
25 customer generation definition to be consistent

1 with the decision and inadvertently we deleted the  
2 departing load definition which -- from the  
3 decision which should have remained in there.

4 What we can do is reincorporate that definition  
5 and send that out to all the parties today and we  
6 will still have 45 days before October 22nd and we  
7 can send that to the parties and OAL and that  
8 shouldn't be a timing issue but we are trying to  
9 be as consistent with the decision that the PUC  
10 issued and have our regulations as flexible as  
11 possible to accommodate any either revisions or  
12 clarifications to this decision or additional  
13 information or exemptions that may apply to new  
14 departing load as well.

15 MS. WESTBY: And that was going to be  
16 precisely my question. We've got a lot of  
17 definitions floating around, they're all different  
18 at this point and I'm assuming that the  
19 controlling definition will go back to the PUC and  
20 in the event that any of these decisions are  
21 confusing for any reason that will be the  
22 controlling source. Is that --

23 MS. HOUCK: Yeah. That is -- our purposes  
24 are to collect data and track information to see  
25 who falls into what categories but the PUC is

1 determining who gets these exemptions, not the  
2 Commission so we need to apply the definitions  
3 they were using in determining what departing load  
4 is and who would receive the exemptions.

5 MS. WESTBY: I think that would be a great  
6 clarification today in going back and pulling out  
7 those decisions precisely so we don't have any  
8 ambiguity. I know it lengthens your regulations  
9 unfortunately but I think it would be helpful.

10 MODERATOR TOMASHEFSKY: Okay. Well I think  
11 within the time frame we're probably okay so  
12 that's not a problem.

13 MS. HOUCK: Is there a concern other than the  
14 departing load definition that you felt was  
15 inconsistent?

16 MS. WESTBY: Well, just the definitions that  
17 we have and the forms are different from the --  
18 regs are different from the --

19 MS. HOUCK: Okay. Okay.

20 Because the forms we have more flexibility  
21 with and we can work with those today. The  
22 definitions in the forms should be consistent with  
23 the regulations which should be consistent with  
24 the PUC decision and I think the definitions in  
25 the regulations we put out other than having to

1 add the departing load definition should be  
2 consistent with the decision.

3 MR. TUNNICLIFF: And the utilities, I think  
4 we all agree that whatever definitions that are  
5 ultimately in the departing -- are in the decision  
6 by the Commission are the ones that we're going to  
7 be using. So the glossary is just intended to go  
8 along with this application process and we always  
9 intended to have the same definitions that we rely  
10 upon, you know, the governing -- you know, whether  
11 it's the Public Utilities Code or whether it's the  
12 Commission establishing those but again it's, you  
13 know, kind of a working document to be used as a  
14 tool to help applicants and we moved into the  
15 attack of one we considered and thought about,  
16 wherever this, its final resting place of this  
17 application resides, you have a glossary and/or  
18 other materials adjacent to them on the same web  
19 site or what have you of. It's just an idea to  
20 keep these things together to make it easier for  
21 applicants.

22 MODERATOR TOMASHEFSKY: Okay.

23 MR. McCLARY: Steve McClary, MRW for Nestle  
24 Waters.

25 I would strongly second Eddy's point and I



1 think, you know, we've got them here. That the  
2 definitions go back to the Commission decision.  
3 In terms of the form and how that's presented, I  
4 appreciate the changes that we've seen. I think  
5 we're working on this glossary issue. I would say  
6 understanding that the glossary as we see it now  
7 as you put it, as a place holder, that at the  
8 front where we refer to the glossary that we  
9 perhaps strengthen the point there to say not just  
10 that sources are provided where applicable but  
11 that the guiding definition, the ruling  
12 definition, will be as defined in the decisions or  
13 I guess in the regulations perhaps in this case.  
14 But just to make sure that, you know, the glossary  
15 can be a useful tool but that it's not taken as  
16 the definition of these terms since we've got  
17 enough versions and misunderstandings of the  
18 definitions already floating around.

19 MR. TUNNICLIFF: I believe we all agree on  
20 that. Good point.

21 MR. McCLARY: One thing that we did talk  
22 about at the last one, and this is somewhat in the  
23 same vein, was actually sort of the title of  
24 these, you know, whether they're customer  
25 generating facility tariff exemptions or departing

1 load tariff exemptions and maybe we didn't go all  
2 the way to the end of that discussion last time  
3 but I would say that it's actually more  
4 appropriate to consider these as departing load  
5 tariff exemptions rather than generating facility  
6 tariff exemptions and it does lead to some  
7 confusion. When you read this initial page of the  
8 tariff you see, is a customer generating facility  
9 tariff exemptions, and the first thing that's  
10 talked about are departing load, costs  
11 responsibility surcharge, departing load,  
12 nonbypassable charges --

13 MODERATOR TOMASHEFSKY: Actually, we did  
14 agree to a change but I'm sure it's just an  
15 oversight. We said, application for departing  
16 load exemption associated with customer generating  
17 facility. I think that's what we agreed to. So  
18 that's just --

19 MR. McCLARY: That's right.

20 MR. TUNNICLIFF: That was a long day.

21 MR. McCLARY: It was --

22 MR. TUNNICLIFF: We tried to get as many of  
23 those questions. We would welcome a red line  
24 version. I think you distributed the document in  
25 word format, not just PDF --

1 MR. McCLARY: That's right.

2 MR. TUNNICLIFF: -- so --

3 MODERATOR TOMASHEFSKY: I will tell you I  
4 don't know how to take track changes off so if you  
5 -- if you ever make changes, make sure it's clean  
6 when you send it to us or you might find something  
7 you don't want to disclose.

8 But anyway, so we can just go ahead and make  
9 that change.

10 MR. McCLARY: All right. Well -- and that  
11 was really the main point I have on this, this  
12 first section.

13 Do you want to go like part 1, part 2, part 3  
14 through this or --

15 MODERATOR TOMASHEFSKY: We could do that.

16 What's your pleasure?

17 MR. TUNNICLIFF: I think so.

18 Any other comments or questions on part 1?

19 MR. McCLARY: Actually, some of what we have  
20 would probably just be, you know, a red line. I  
21 think there is, you know, typo type things that we  
22 don't really need to stay until four o'clock going  
23 through that kind of thing.

24 MR. TUNNICLIFF: We could.

25 MR. McCLARY: Yeah, we could but it is Friday

1           MODERATOR TOMASHEFSKY: Yeah. That's why we  
2     have these meetings on Friday so we can get out of  
3     here.

4           MR. TUNNICLIFF: One thing we did I want to  
5     offer up too is we -- there's a lot of ways we can  
6     do this but, you know, red line version and  
7     comments received that way would probably be  
8     pretty helpful at this point because, you know,  
9     you can -- each time when we get through this we  
10    find something else and I'm sure you're looking at  
11    it a little differently. We intended to modify it  
12    that way and we missed that last comment so --

13          MR. McCLARY: We can do that too. And also,  
14    I mean, in some ways going through the details  
15    when -- I think you said at the beginning, Scott,  
16    you're looking at pulling out some of the non-CRS  
17    material and an application anyway, that's sort of  
18    more of a macro change than some of the red line  
19    kinds of comments we might be providing anyway.

20          MODERATOR TOMASHEFSKY: Okay.

21          MR. McCLARY: All the more reason to give you  
22    a clean version.

23          MODERATOR TOMASHEFSKY: Absolutely true. And  
24    to the extent that we are in a position -- as we  
25    finish up this discussion later if we can have

1       these changes incorporated so that we can  
2       distribute something before the hearing on the  
3       24th that would be great so I'm looking for  
4       something a week before that ideally.

5           MR. McCLARY:   Thanks.

6           MODERATOR TOMASHEFSKY:   Okay.

7           MR. TUNNICLIFF:   Do you mind if we just take  
8       one minute.   I have one result -- is

9           MODERATOR TOMASHEFSKY:   Sure.   Do you want a  
10      side discussion or --

11          MR. TUNNICLIFF:   Yes.

12          MODERATOR TOMASHEFSKY:   Okay.

13          You want to go off for a second?

14          THE REPORTER:   Off the record?

15          MODERATOR TOMASHEFSKY:   Yeah.   Off the record  
16      for a second.

17          (Thereupon a recess was taken.)

18          MS. MANWARREN:   One of concerns that I had  
19      before we moved on was the agreement that this is  
20      going to be the application for customer  
21      generating facility tariff exemptions without  
22      reference to 0304030 and the reason I say that is  
23      that we already have a pending advice letter on  
24      file with a new tariff that also includes  
25      exemptions to 372 or three seven two and 353.2

1 that are pending approval. So it might conflict  
2 unless we reference this document to the --

3 No? You don't think so?

4 MS. HOUCK: It will either be a CEC form or  
5 we can put something in there regarding  
6 eligibility determination but we don't want to  
7 reference that decision because we want to make  
8 sure our regs are flexible enough that where if  
9 there's a subsequent decision that comes out that  
10 we don't have to go back and redo this because  
11 we're also looking at this to collect data  
12 generally. It's a CEC form and if we want to put  
13 a footnote in there somewhere looking at the  
14 general concept of what the PUC is doing, but the  
15 form is going to be based on our regulations --

16 MS. MANWARREN: Okay.

17 MS. HOUCK: -- and even though we're relying  
18 heavily on this decision because it sets out the  
19 criteria, we're looking out for determining these  
20 forms. It's still relying on our regulations.

21 MS. MANWARREN: Okay.

22 So there will be some reference that this is  
23 a CEC form then.

24 MODERATOR TOMASHEFSKY: In some form or  
25 another we'll make --

1           MR. TUNNICLIFF: Provide that, you know, one  
2   of the things that we're -- definitely we're  
3   concerned with is making sure that to the greatest  
4   extent possible departing load and these related  
5   tariff exemptions rely upon and work with existing  
6   file forms that are already on the books. For  
7   simplicity, for customer ease it would be better  
8   if they're going to have to apply for these  
9   exemptions or apply for exemptions. They're not  
10  going to get this form and three other forms to  
11  get all of the tariff related exemptions so, and  
12  that's one of the issues and one of the concerns.  
13  We have departed too far away from the departing  
14  load issue.

15           MODERATOR TOMASHEFSKY: Yeah. I know that  
16  we've always kind of danced around the issue of a  
17  catchall exemption form and there's some concerns  
18  that we'll have in terms of being able to approve  
19  that or whatnot because the other areas are  
20  clearly outside of the realm of what we're trying  
21  to do here but to the extent that there is an  
22  opportunity to make use of it. I know we get into  
23  part 8 there is a question in terms of, you know,  
24  as far as what the utility fills out as far as  
25  categorization and what you have classified under

1 exemption information goes beyond just our stuff  
2 so that's something that the utilities not going  
3 to -- the customer is not going to complete anyway  
4 so whether you have it in there or not we can  
5 debate I suppose.

6 MR. HANSON: Doug Hanson, San Diego Gas and  
7 Electric.

8 Comment about the nature of the form itself.  
9 I was under the impression that we would be  
10 complying with PUC rules by filing this form  
11 ultimately with the CPUC to give SDG&E the  
12 authority to use it with a customer because there  
13 are requirements within PU Code that any forms  
14 used with a customer be filed and approved by the  
15 division, the CPUC. And I didn't want to see us  
16 running afoul of these regs.

17 MODERATOR TOMASHEFSKY: When you're saying --  
18 does it have to be on file with the PUC or it has  
19 to be approved by the PUC?

20 MR. HANSON: Actually, it has to be approved.

21 MODERATOR TOMASHEFSKY: Okay.

22 And so by nature of the relationship between  
23 RO and RO 201 0 and 1, does that give us de facto  
24 authority to create that form on their behalf?

25 MR. HANSON: The way I was interpreting how



1     this process would work was that the form would be  
2     a form that would be acceptable to the CEC and we  
3     would file it with the PUC and they'd go --

4             MODERATOR TOMASHEFSKY:   Okay.

5             MR. HANSON:   -- through an advice letter  
6     process.

7             MODERATOR TOMASHEFSKY:   Okay.

8             MR. HANSON:   I don't see any reason why the  
9     PUC would do anything other than approve something  
10    that you found useful.

11            MODERATOR TOMASHEFSKY:   Okay.

12            MR. HANSON:   But that's why I think  
13    Katherine's approach of identifying it as a  
14    specific, you know, tying it specifically to the  
15    decision is very appropriate because ultimately  
16    what we're going to end up having to do is, you  
17    know, use a form approved by the Commission  
18    anyway, I think.

19            MS. HOUCK:   For purposes of what we're doing  
20    here in our process, we're looking at our  
21    authority and our regulations and what we've  
22    indicated is the Commission shall prepare a form  
23    in conjunction with the utilities and that the  
24    utilities could develop forms that substantially  
25    meet the criteria set forth in Regulation section

1 1395.2(a) and that as long as that's approved by  
2 this Commission, they could utilize that form to  
3 give us the information we would need.

4 The decision that the PUC issued does state  
5 we will require the utilities to provide data and  
6 to cooperate with the CEC in this endeavor. In  
7 addition we will request the CEC provide an  
8 opportunity for public comment on the manner in  
9 which it will gather information, et cetera, and  
10 that the information is to be provided to both  
11 commissions. So that may be another issue. We  
12 would want to clarify with the PUC if that's in  
13 essence approving this or if you would need to  
14 submit whatever form you're giving to us for  
15 approval also to the PUC.

16 MR. HANSON: Another way may be to reach  
17 compromise a little more quickly is if we could  
18 maybe just leave a blank for in reference to a  
19 decision and then let us fill in the blank if the  
20 Commission were to change their decision, that way  
21 we can comport with the form requirements yet --  
22 and have -- maintain flexibility.

23 MODERATOR TOMASHEFSKY: Well, are you saying  
24 that, similar to what you have on a typical tariff  
25 sheet and have on the bottom, you have your

1 compliance new decision number with your effective  
2 date and the like?

3 MR. HANSON: Right. We'll actually have that  
4 as this --

5 MODERATOR TOMASHEFSKY: As a tariff sheet.

6 MR. HANSON: -- will be just a file form.  
7 It's approved here by the Commission for us to  
8 use.

9 MS. HOUCK: The potential problem there is  
10 that the form isn't being developed in conjunction  
11 with the PUC --

12 MR. HANSON: Uh-huh.

13 MS. HOUCK: -- as they didn't require the  
14 form per their decision, we're requiring it for  
15 our regulations.

16 MR. HANSON: Correct.

17 MS. HOUCK: So there may be an authority  
18 issue there as to whether what we're doing is  
19 somewhat different --

20 MR. HANSON: Um-hum.

21 MS. HOUCK: So I don't know that we would  
22 want the form that we're preparing to have that  
23 reference.

24 MR. HANSON: But if the reference were a  
25 reference with a blank space, then we can plug in

1 on the form as we deal with each individual  
2 customer the actual decision number. That's a way  
3 to have us try to get to the same conclusion that  
4 we want and perhaps satisfies your need for  
5 flexibility. That is all I'm suggesting.

6 MR. TUNNICLIFF: Yeah and the whole -- the  
7 main premise for going about this process and in  
8 tying it to the interconnection process or any of  
9 these other things that are currently in play,  
10 customers are already engaged in these things and  
11 we wanted to make sure that to the greatest extent  
12 possible we integrate with what's already going  
13 on. And we have tariffs that we're required to  
14 implement and administer that may or may not  
15 provide this information, may or may not provide  
16 you all of the information you're interested in  
17 but it's important for us to administer our  
18 obligations under the departing load decision,  
19 D030403.

20 MODERATOR TOMASHEFSKY: Yeah. Okay.

21 I think that's something we can certainly  
22 work out. That's more of a technical nuance than  
23 anything else.

24 MR. HANSON: I agree it is.

25 MODERATOR TOMASHEFSKY: But it's appropriate

1 to bring it up.

2 MR. HANSON: I was more concerned that you  
3 become cognizant of our perception of this as a  
4 file form with the CPUC once the CEC and us and  
5 the other parties have worked it out.

6 MODERATOR TOMASHEFSKY: Right. Okay.

7 And one of your suggestions is that really if  
8 once we agree on a format, it just becomes really  
9 an advice on our compliance issue for you in terms  
10 of having the PUC adopt it.

11 MR. HANSON: That's correct.

12 MODERATOR TOMASHEFSKY: Okay.

13 MR. TUNNICLIFF: All right.

14 Well, if you'd like we can go on to part 2.  
15 We're asking for generation facility location,  
16 responsible parties. This is essentially the same  
17 as it was the last time that, you know, we were  
18 asking for the host customer information, contact  
19 information and occasionally we have applicants  
20 that are applying for -- that are not necessarily  
21 the ones that are responsible for paying any  
22 utility bills, so we wanted to make sure that that  
23 space was cleared and at least if need be we had  
24 contact information.

25 Any questions? Concerns?

1           Going on to part 3. Description of the  
2     generating facility. We had this type of  
3     information somewhat -- or in three different  
4     sections last time and what we've tried to do is  
5     pull it together to the greatest extent possible  
6     so we're asking for nameplate and then actually  
7     maximum customer demand and then specifically we  
8     had some information that was previously found in  
9     what we referred to as part 5 that include  
10    equipment description information which we use,  
11    the utilities use, and to help evaluate whether or  
12    not someone will be eligible and specifics related  
13    to prime mover and fuel type.

14           Change the format; we heard that. The  
15    comments: the previous version was not as user  
16    friendly as this so we're hoping this is an  
17    improvement.

18           Chuck?

19           MR. SOLT: I don't understand the gross  
20    versus net nameplate. The equipment that I deal  
21    with has a nameplate rating, period. It doesn't  
22    state whether it's gross or net and it doesn't  
23    have two different ratings, a nameplate is a  
24    nameplate. What do we mean by -- if you said  
25    gross or net output, that's one thing. But to say

1 gross or net nameplate, I don't understand that.

2 MR. TUFON: My name is Chris Tufon, from  
3 PG&E. I helped -- we worked with the joint -- the  
4 utilities to come up with the form.

5 Actually we mean the gross output and the net  
6 output.

7 MR. SOLT: So then you get back to the next  
8 question is to what you mean by gross output. Are  
9 we talking about off the generator terminals or  
10 are you talking about the shaft power off the  
11 engine or what? I mean, if you simply say  
12 nameplate and you're done with it, that's cool,  
13 everybody can figure that out. When you start  
14 talking about gross and net, you get into a  
15 whole -- you have to define much more what you  
16 mean by those terms.

17 MR. TUFON: Well, generally this case would  
18 assume that the nameplate -- what you gave in the  
19 nameplate itself would be the gross and the net  
20 would be minus the auxiliary loads or capacity  
21 loads.

22 MR. SOLT: Then I would suggest you say it  
23 that way. You say you want the nameplate of the  
24 generating unit --

25 MR. TUFON: Right.

1           MR. SOLT:  -- and that you want the net power  
2   output from the generating facility.

3           MR. TUFON:  Correct.

4           MR. SOLT:  If you say those two things, I  
5   think that's fairly clear.

6           MR. TUFON:  Okay.  That's good.  We can make  
7   that correction rather simply.

8           Okay.  Thanks.

9           MODERATOR TOMASHEFSKY:  Will you come up?

10          MR. ROMANOWITZ:  Hal Romanowitz, Oak Creek  
11   Energy.

12          Thinking of wind power installations, this  
13   form creates -- is misused -- the gross plus net  
14   as you're defining it there creates issues when  
15   you think of there will -- the typical facility  
16   will have a number of wind generators associated  
17   with it replacing a single load so that where this  
18   is really set for a, you know, one or two  
19   combustion turbines when you do a wind turbine  
20   project for this sort of an application it doesn't  
21   fit too well and if you -- you could have, for  
22   example, the gross nameplate rating of all of the  
23   wind turbines and then the net output would work  
24   and if there is a project say with 20 wind  
25   turbines it's awful tedious to list 20 different



1 turbines all identical, you're creating a very  
2 bulky thing where you list it as quantity for each  
3 turbine. That would be much better. And what you  
4 might do is provide a block where you had the  
5 project rating, you know, in gross nameplate and  
6 net and then have each of the component elements  
7 like, you know, the quantity of "X" wind turbine  
8 with such and such a nameplate rating.

9 MR. TUNNICLIFF: I think that's what we  
10 intended with the top line, having a summary of  
11 the whole facility and then generator specific one  
12 two and three. I agree that if you do have 20 you  
13 may not want to attach 20 additional sheets and  
14 you're talking about 20 wind turbines that are  
15 exactly the same output, equipment descriptions  
16 and things like that. We can probably come up  
17 with a work-around like you're proposing. It  
18 doesn't seem, you know, in conflict with what  
19 we've laid out.

20 MR. ROMANOWITZ: Okay.

21 You could utilize -- the quantity thing would  
22 help.

23 Then the other thing is in fuel type. For  
24 example, what is wind? Is it "other" or "not  
25 applicable"?

1 MS. MANWARREN: Probably "not applicable."

2 MR. ROMANOWITZ: And then going one step  
3 where you know, maybe some clarification somewhere  
4 would be helpful. And then in a typical facility  
5 there is -- the wind turbine would be the primary  
6 energy and then a storage capability would be  
7 secondary energy. That is going to consume part  
8 of the wind turbine energy to do the firming of it  
9 and that's not really covered in anything you have  
10 here so that in essence to look at what you have  
11 to do from a -- what is the impact on departing  
12 load, it's -- you would typically have a much  
13 larger nameplate rating of wind turbines  
14 associated with the smaller departing load because  
15 of the firming and that's not covered well here.  
16 You know, maybe you do it with some sort of an  
17 attached sheet to describe it or something but it  
18 doesn't work very well. The projects that we're  
19 looking at, it's very hard to describe them, you  
20 know, in these forms.

21 MS. MANWARREN: Could I ask for a definition  
22 of "firming."

23 MR. ROMANOWITZ: Yes.

24 When you take the energy that's produced in  
25 one time period and store it and deliver it in a

1 second time period which, with a wind turbine  
2 application you need to do that in order to avoid  
3 demand charges so the way -- that's the way you  
4 overcome the demand charge. So it becomes an  
5 essential part of making these work.

6 MS. MANWARREN: Forgive me if I'm intervening  
7 at the wrong time here but I think there is a  
8 related point to what this gentleman is raising  
9 about how these forms are set out.

10 When we were talking in our last workshop, we  
11 talked about measuring the contribution to the cap  
12 based on nameplate capacity versus departing load  
13 and I think that's what you're talking about here.

14  
15 And Scott and Darcie, I appreciate the  
16 changes you made in the regs to say that it would  
17 really be the departing load itself rather than  
18 the nameplate that would be counted and I think  
19 that's in 1395.3(d) we made those changes. I  
20 think the forms still don't quite accommodate that  
21 and the problem is that the form talks about  
22 nameplate generating capacity in part 3 and then  
23 it talks about customer demand but it's still not  
24 clear exactly how these forms will translate  
25 departing load into your regs.

1           MODERATOR TOMASHEFSKY: I'm sorry. I thought  
2       when we had discussed it we had -- well you had a  
3       line item in there for estimated supporting load  
4       of total hours and that was part of the solution.  
5       I thought we were actually going to have another  
6       box for that so you got the estimated demand and  
7       then you also have the estimated annual kilowatt  
8       hours that are associated with that. So at least  
9       that's what I have in my notes from the last  
10      meeting so if we add that back in then I think  
11      resolve -- we don't totally resolve the issue but  
12      at least we have the data to make that  
13      determination at some point.

14           MR. ROMANOWITZ: If you have it, then it  
15      should be clear that it is the departing load that  
16      you're really dealing --

17           MODERATOR TOMASHEFSKY: Right.

18           MR. ROMANOWITZ: -- with --

19           MODERATOR TOMASHEFSKY: Yeah, so, Dan, if we  
20      can add that back in at least in terms --

21           MR. HANSON: Doug Hanson, San Diego Gas and  
22      Electric.

23           I'm not sure that that's all that  
24      appropriate. The reason why I say that is I think  
25      what you need for purposes of the CEC -- and here

1 I'm speaking what I think -- is the KW of  
2 reduction and load that we've heard is going to be  
3 served by these generators. This KW, you're  
4 supposed to come up with, you know, you're  
5 achieving a 3,000 megawatt count so what we tried  
6 to do, I thought, was come up with two different  
7 sets of information here and limit ourselves down  
8 to the two essential pieces, one is nameplate and  
9 the other is an information regarding how much  
10 departing load is there involved with the project.  
11 You have, you know, let's say 200 KW of nameplate  
12 but you're only going to have 150 KW departing  
13 load, put 150 in a second box and that's the  
14 information you need to tally up to determine are  
15 you or are you not at 3,000 megawatts.

16 That second box is intended to provide  
17 information that is different than nameplate based  
18 upon the customers' or the project managers' best  
19 judgment of how much load is actually going to be  
20 served; that's what it's intended for. The  
21 terminology may be substandard, but it is what I  
22 think we were attempting to do.

23 MR. ROMANOWITZ: If that is what you're  
24 doing, that was really one of the points that  
25 we're making and if that's the way it's used, then

1     that's fine. That's one of the critical elements.  
2     But then the question is you're asking for an  
3     enormous amount of data on each one of the  
4     generators and sort of, why, is the -- the  
5     pertinent information is really the amount of  
6     departing load that's going to be served and then  
7     the rest of it is strictly for a compliance, to  
8     know that you have a qualifying generator.

9           MODERATOR TOMASHEFSKY: Right so in your  
10    situation if you're a customer, the only thing you  
11    really need to know is, I'm going to be -- my load  
12    is departing based on, this is the generating  
13    facility that I'm using to sample the facility  
14    that has 20 generators on it so as the project it  
15    is tied into -- so I only need to submit that  
16    information once and I think what Dan's suggesting  
17    is that kind of gets you out of that problem of  
18    having to list all 20 generators is to just say --

19           MR. ROMANOWITZ: Right.

20           MODERATOR TOMASHEFSKY: -- here, this is the  
21    generating project that I'm attaching my point one  
22    request to and, you know, there's 20 to 25 wind  
23    turbines that are part of the project. Here's  
24    where it is.

25           MR. ROMANOWITZ: And that's the primary

1 energy and then you really don't even need to know  
2 about secondary energy storage, you know, the  
3 firming. That's really superfluous in a way,  
4 really, but it's just primary energy creates  
5 qualification.

6 MR. TUNNICLIFF: But this form is also  
7 intended to -- we do have customers that apply and  
8 install different types of hybrid systems,  
9 microturbine and photovoltaic system or just  
10 internal combustion engines or whatever. You  
11 know, so it's more than just trying to -- we don't  
12 often see projects -- well, why haven't seen that  
13 many projects with that number of generators that  
14 are all similar. Twenty is a lot, but, you know,  
15 that -- we should be able to accommodate that in  
16 some way.

17 MR. ROMANOWITZ: That is a real number, by  
18 the way for a project so -- yeah.

19 MS. HOUCK: I can state that we didn't have  
20 wind farms in mind when we put this form together  
21 but certainly is something we can allow for.

22 MR. McCLARY: And in fact --

23 THE REPORTER: I'm sorry. Who is speaking?

24 MS. HOUCK: Please state your name.

25 MR. McCLARY: Steve McClary, MRW.

1           The last workshop, I think the more general  
2   point here -- and my recollection is the same as  
3   yours -- of where we came out was looking for the  
4   estimated departing load both in peak and kilowatt  
5   hours partly because -- I'm not sure we reached  
6   resolution on how you would be accounting for  
7   departing load, whether it was an annual peak, a  
8   monthly peak, you know, annual average. There  
9   were a lot of questions there and again I think it  
10  was in part to get the best estimate you could of  
11  both in order to gather the information you needed  
12  whichever definition you ended up with for  
13  accounting against the cap.

14           MODERATOR TOMASHEFSKY: Yeah. That's my  
15  recollection. And also if you tie in some of the  
16  data collection stuff that we do with a lot of our  
17  analytical work, we're trying to come up with a  
18  learning curve in terms of what impact the DG  
19  industry has and in that context it's important to  
20  get a better understanding of the relationship  
21  between peak demand and average demand load  
22  factors and how it all fits in. It just does --  
23  it does impact your forecasting capabilities and  
24  how you deal with those things.

25           MR. McCLARY: And I would think it might also



1     affect your report when you reach certain  
2     thresholds you report to the PUC as to, you know,  
3     we're approaching this threshold in the cap and in  
4     providing that information to the PUC, would you  
5     be able to put some perspective around it like  
6     saying how significant a load we're talking about.

7  
8           MR. TUNNICLIFF:   And that's the rationale for  
9     the net output or however you want to phrase that  
10    or the KW.   Kilowatt hours is an issue that  
11    utilities use for billing purposes and has no real  
12    relation to managing the cap.   All applications  
13    and interconnections, I think all three utilities  
14    are headed towards if they don't already do it,  
15    meter all of the loads produced by those  
16    generators so the kilowatt hours is less of an  
17    issue.

18          MODERATOR TOMASHEFSKY:   Right.   Although I  
19    think from the standpoint of how we interpret the  
20    cap and what type of recommendations we make in  
21    the future, then there's some insight that we get  
22    by having that put on front.   Part of the -- on  
23    the flow side concern of that is that someone  
24    gives you a number and then they don't operate it  
25    that way so the number is completely irrelevant.

1     So that's the other side of the picture. But for  
2     purposes of a starting point, to have the KWH  
3     there as an annual estimate is probably helpful  
4     from our standpoint. And again, we do these  
5     things, these policy reports on a two-year basis.  
6     I mean, look at the Energy Action Plan. EG's  
7     right in the middle of it and yet there is this  
8     big, black box that, well, how are we going to  
9     deal with it? So we want to deal with it and we  
10    get smarter in how we factor into some of our  
11    policy recommendations. So if we can throw that  
12    back in there as a block to start with, I think  
13    that would be helpful from our standpoint, even if  
14    there's some areas where there might be some  
15    concerns about how relevant it is to what's their  
16    maximum KW demand. So it just gives us some  
17    flexibility to do something with.

18           MS. MANWARREN: Just one thing I wanted to  
19    point to a little bit and that is if we're going  
20    to work towards a "one form fits all" where we can  
21    consolidate forms for both purposes to fill out  
22    the CPC tariff filings and to meet your  
23    requirements for your CEC so we have for purposes  
24    simplification and ease of use for exemptions for  
25    DG period, then we will need to have a little bit

1 more information on this form that won't apply to  
2 CEC in order to make it work in both capacities.

3 MODERATOR TOMASHEFSKY: Well that's why I  
4 said at the beginning I think we're heading  
5 towards we're going to have to strip that part out  
6 and even though there is a loss of synergy in  
7 having one form, it's all, in terms of our  
8 jurisdiction, if you will, for lack of a better  
9 term, we have to focus on the CRS component. If  
10 we start focusing on the other things, while it  
11 make more sense "synergies" -- or whatever that  
12 word is, it may make more logical sense looking at  
13 the exemptions. We may have to really look at the  
14 CRS part just by itself so that will probably take  
15 care of some of those concerns but it does require  
16 an additional form which -- at least we can use  
17 this as a basis for developing that other form.

18 Any other questions, comments, concerns?

19 Okay.

20 MR. TUNNICLIFF: Part 4, we have -- we had it  
21 in a couple two places. We combined some  
22 additional loads. We had -- we talked about  
23 additional loads that are served sometimes by  
24 generating facilities to address some of the  
25 comments that we received when parties reply to

1 your draft regulations, over-the-fence type  
2 transactions, et cetera so this section is  
3 intended to capture that information.

4 MR. ROMANOWITZ: The one issue here might be  
5 that you might have a CAL ISO interconnect  
6 associated with some of the energy from a  
7 particular facility, in other words a facility  
8 might be serving a particular load and also  
9 serving, say, you know, a CAL ISO tie point and  
10 that really wouldn't be covered here.

11 MS. MANWARREN: That would be a  
12 wholesale --

13 MR. TUNNICLIFF: So you're talking about like  
14 a facility that has a wholesale CAL ISO exemption  
15 to serve some part of their on-site load and then  
16 also sell some wholesale; is that what you're  
17 talking about?

18 MR. ROMANOWITZ: Right.

19 MR. TUNNICLIFF: W'd out serving off-site  
20 load?

21 MR. ROMANOWITZ: Yeah. And so therefore you  
22 don't have really an electric service account  
23 number.

24 MS. MANWARREN: We don't consider that  
25 departing load in this --

1           MR. ROMANOWITZ: No, it would not be a  
2     departing load.

3           MR. TUNNICLIFF: And that would be reflected  
4     in that previous section where you might have  
5     total nameplate capacity of "X" or total capacity  
6     and the output, the net output served on site in  
7     KW is a smaller number in your situation or in  
8     that type of situation.

9           MR. ROMANOWITZ: Yes.

10          MS. WESTBY: I think this section is very  
11     confusing and I would keep going back to the same  
12     problem. This isn't about the generating  
13     facility, this is about a departing load so what  
14     relevance does an application for exemption by a  
15     particular departing load have to anybody else's  
16     departing load. I just keep -- we keep focusing  
17     on the generating facility but this is about a  
18     customer who has a load that is departing. It has  
19     nothing to do with the generating facility other  
20     than verifying that the generating facility meets  
21     certain requirements.

22          But let's assume we've got a refinery and  
23     we've got a generating facility serving maybe  
24     Chevron for example and one of the Air Products  
25     companies on site. If I'm Chevron, I'm seeking my

1 own exemption. I'm not seeking Air Products'  
2 exemption; they're going to come to you separately  
3 for their departing load exemption. So I just get  
4 confused by the form again going to generating  
5 facility rather than load.

6 MS. HOUCK: I think at the last workshop  
7 there was an issue that was discussed regarding  
8 potential for double counting. We want to have  
9 one sort of side calculation that, you know, this  
10 is the maximum capacity that could possibly be  
11 getting exemptions at this time because we have  
12 the numbers of what that actual generating  
13 capacity is but then we have the number of what's  
14 actually departing which would recede the  
15 exemptions and make sure that those numbers are  
16 within what that full generating capacity is, if  
17 that makes sense. I think there was some concern  
18 about making sure that we were keeping track of  
19 where the load was coming from.

20 MR. TUNNICLIFF: That was the intent and we  
21 did have quite a big discussion about that and  
22 those were some of the comments that Nestle was  
23 bringing up in some of their original comments  
24 about their ability to serve over-the-fence or  
25 other loads other than what they had at their

1 facility, so.

2 MODERATOR TOMASHEFSKY: Steve, do you have  
3 any thoughts on that?

4 MR. McCLARY: Well, we did discuss it last  
5 time and I would -- I don't know how much time  
6 we'd want to spend pursuing it. I think  
7 ultimately I did think we came at least in part to  
8 the conclusion as other customers -- if they are  
9 going to get exemption from exit fees for some  
10 part of their loan which is because it's departing  
11 load, they're going to have to apply it for that  
12 somehow and that's where you would track it rather  
13 than putting a generator facility here, someone  
14 who's applying for their own departing loan  
15 exemption in the position of being sort of an  
16 agent of the utility and tracking over-the-fence  
17 loads.

18 Now I recognize that part of the problem was,  
19 and the utilities were clear on this, that they  
20 don't actually have a very good or a very -- they  
21 don't have a high degree of confidence in their  
22 ability to track those kinds of over-the-fence  
23 loads and the way that they go away which, you  
24 know, is -- is a problem both for your accounting  
25 in how much departing load there is and for the

1 utility. I'm just reluctant to see someone who is  
2 in the process of putting a generating facility in  
3 put into the position of an agent of the utility  
4 in solving that problem.

5 Maybe, and I thought, actually, that where we  
6 ended up was in having the full nameplate capacity  
7 of the generating facility and the estimate of  
8 this customer's departing load you would have at  
9 least some indication of, you know, what's the  
10 rest of this load and maybe the way to go is to  
11 have here -- indicate whether the remainder of  
12 that output is expected to be not utilized,  
13 whether it is going to wholesale loads or whether  
14 goes to retail loads. And then you've got some  
15 estimate of how much departing load might be  
16 associated with that facility without the  
17 generator being put in the position of tagging  
18 loads that they may not be that familiar with,  
19 they may not -- you know, the customer, Air  
20 Products in your example, might not want to share  
21 a lot of detail, might not want to give electric  
22 bills to Chevron for Chevron to then pass on to  
23 the utility.

24 I think this level of intervention by the  
25 generating facility operator is problematic.



1           MODERATOR TOMASHEFSKY:  So you're making a  
2 point to not even have this in there entirely.

3           MR. McCLARY:  That would be our preference,  
4 yeah.

5           MODERATOR TOMASHEFSKY:  Okay.

6           And now from your perspective, this  
7 information should flow out of their -- I mean,  
8 there's got to be some connection between a  
9 project and the fact that, you know, there's going  
10 to be some sort of over-the-fence transaction  
11 that's going to occur; wouldn't that be the case,  
12 or is it even relevant?

13          MR. TUNNICLIFF:  Jerry?

14          Jerry works in our QF department and manages  
15 Southern California Edison's --

16          MR. TORRIBIO:  Jerry Torribio, Southern  
17 California Edison.

18          Just a point on the hypothetical over-the-  
19 fence transaction.  Normally that would have to  
20 pop up during the interconnection process for  
21 generator A because the way the interconnection is  
22 done has a safety and system operation  
23 implications both for customer A and customer B so  
24 it does surface then.  I don't think it would work  
25 within Rule 21 to have a silent or a secret, let's

1 say confidential over-the-fence transaction if  
2 that other customer intends to remain connected to  
3 the grid.

4 MODERATOR TOMASHEFSKY: Okay.

5 So in the case of this particular form then,  
6 what it sounds like, what's emerging here is that  
7 this really isn't necessary and in terms of doing  
8 that it goes back to the question, what's the  
9 minimum information we need to make the  
10 determination about whether a project is a real  
11 project and be eligible for CRS exemption. And  
12 this part would not be relevant --

13 MR. TUNNICLIFF: Well, I really don't know  
14 how you would manage the cap if you were applying  
15 and having a party that's being served over the  
16 fence by this generating facility. I don't know  
17 how they would fill out this application because I  
18 don't have any specifics about the type of  
19 application or what type of exemptions they're  
20 applying for. Do they know if it's a co-gen? Do  
21 they know if it's another generator? What  
22 application or what category are they going to fit  
23 into unless the person that owns the generating  
24 facility actually fills this out.

25 MR. McCLARY: Well, getting department load

1 exemptions and they got to apply for that and then  
2 you know how much departing load is applying for  
3 in getting exemptions. The generating facility  
4 isn't getting that department load exemption.

5 MR. TUNNICLIFF: But where are they going to  
6 get the efficiency numbers to qualify for a 372  
7 CTC exemption if that's what they're going for?

8 MR. McCLARY: The third party that would be  
9 applying for it --

10 MR. TUNNICLIFF: Right.

11 MR. McCLARY: We might need to have a process  
12 for them to refer to a previously certified  
13 facility as the source power that -- making their  
14 load eligible as departing load. But the  
15 generating operator -- the generator operator  
16 doesn't seem to me to be the right place for that.

17  
18 MR. TUNNICLIFF: It's not --

19 MR. McCLARY: It isn't starting load until  
20 somebody's getting an exemption for it for  
21 purposes of your accounting against the cap.

22 MODERATOR TOMASHEFSKY: Okay.

23 So suppose we didn't have this in here.  
24 What's the implication? Someone applies for an  
25 exemption and they're in their 10 megawatt

1 facility and they indicate that their maximum  
2 demands would be five megawatts and so they apply  
3 for the five megawatt exemption. So you know that  
4 a portion of that -- say if the rest of that is  
5 going somewhere else and no one applies for it,  
6 well, you're not double counting, are you, in that  
7 case? What situation would you get into where  
8 you're double counting by virtue of not having  
9 this information available?

10 MS. TESSLER: I think it's undercounting  
11 because if the customer doesn't have any incentive  
12 to apply for exemption, they just won't pay it.  
13 They won't get the bill because they're not using  
14 the energy. I think we talked about this last  
15 time.

16 MODERATOR TOMASHEFSKY: We're distinguishing  
17 between a customer and customer generator.

18 MS. TESSLER: I'm talking about an over-the-  
19 fence transaction. If we don't find out somehow -  
20 - and I thought it was in a later section actually  
21 where they mentioned who else is going to be  
22 supplied energy from this installation without  
23 getting into details just so it's a flag for you  
24 and utility that there is a condition on the part  
25 of both otherwise there is no incentive for the

1 customer to raise their hand and say, I'm applying  
2 for exemptions; isn't that right? Isn't there a  
3 section later -- additional loads, part 4?

4 MR. TUNNICLIFF: That's the part we're on.

5 MS. TESSLER: Right. And I'm saying  
6 that's --

7 MODERATOR TOMASHEFSKY: Okay, so assuming  
8 this is in here, and I'm still in here, and the  
9 customer has no knowledge of what the generator is  
10 going to do because they don't really care,  
11 they're going to check -- they're not the owner-  
12 operator and the general facility has no knowledge  
13 of energy delivery and the rest is NA as far as  
14 they're concerned. Isn't that's one possible  
15 outcome. So if you -- so I guess the concern is  
16 that, okay, well if you're a generating facility,  
17 what do they need to provide us to know that we're  
18 not double counting on an exemption request. So  
19 if they say they're claiming as a customer  
20 generator, a 10-megawatt facility, they're  
21 claiming 10 megawatts and yet they are selling  
22 some of that power off line, what are they going  
23 to get an exemption for? What it does is it skews  
24 -- essentially skews the cap. It doesn't skew  
25 what they're going to get because it's all based

1 on what the tariff was anyway, it's all based on  
2 the end of the day.

3 MS. WESTBY: Yeah. And I was going to say if  
4 you've got a load on your system and departs, your  
5 customer rep knows it's departed. It's not a  
6 secret. You know, you've got a meter and if the  
7 meter's reduced then PG&E can't tell if there's a  
8 problem. And that happens today under 372.

9 MODERATOR TOMASHEFSKY: Carolyn, you had a  
10 question?

11 MS. KEHREIN: Carolyn Kehrein, EMS.

12 There are two points being raised to yours as  
13 far as how do you keep from double counting. On  
14 part 2 it says generation facility location and if  
15 I was buying over the fence from somebody, maybe  
16 we need to add a section there. Like somebody was  
17 saying, you know, just reference a previously  
18 filed application. So, you know, let's say that -  
19 - excuse me -- Nestle puts in a generator and  
20 they're going to sell to ABC Manufacturing.  
21 Nestle does all the work on the generator. Then  
22 when ABC wants to put it in, ABC puts in its form  
23 and where it says, facility name, it's the Nestle  
24 facility with a Nestle application number or  
25 however we're going to keep track and then you

1 just go back to the Nestle application to see that  
2 whether or not it's met the requirement.

3 So it does two things. It makes sure that  
4 the generator actually applicable and then also  
5 allows you to make sure you're not double  
6 counting. So that was my thought on this issue.

7 On the other issue that PG&E raised, my  
8 response is very similar to Eddie's which is  
9 that's a problem that exists right now, it gets  
10 resolved right now, it's not a new problem so why  
11 are we trying to address it with this form? You  
12 know, it's like having said, the load disappears,  
13 you know and -- we aren't trying to resolve  
14 existing problems with this form. This is  
15 specific to this situation.

16 MS. MANWARREN: I'd like to answer that.  
17 That's part of a problem is that if you have a  
18 customer B that's going to take power from  
19 generator A, there's no incentive there for them  
20 to provide any information to the utility that  
21 they're taking over the fence. That is a problem  
22 and that's why, as you say, we have a problem.  
23 We're trying to capture that information because  
24 the likely place of getting it is from the  
25 generator, not from the customer taking the

1 service over the fence. It just doesn't happen  
2 that often.

3 MS. KEHREIN: Carolyn Kehrein again.

4 Two things. First thing is you're saying if  
5 that situation exists, it currently exists. It's  
6 not new to this and there's a way, like Eddie  
7 said, the account reps know it. That's the first  
8 part.

9 The second one is that I'm not sure exactly  
10 how the CPUC rules are written but I assume it  
11 would be against the rules for somebody to depart  
12 without telling the utility and so in that case  
13 they're violating a rule that exists somewhere  
14 else and we don't need to be policing that rule  
15 here. It's -- it's a separate issue to what we're  
16 trying to do here.

17 MR. McCLARY: In the course of this  
18 discussion one other point that occurs to me  
19 that's again, maybe problematic for the  
20 Commission, is if you imagine this kind of an  
21 approach, the generator files this and says, well,  
22 there's five megawatts of departing load on my  
23 side and two and a half megawatts of departing  
24 load over the fence and ultimately there's a  
25 disagreement between the utility and the two and a



1 half megawatt over-the-fence customer whether  
2 that's departing load, whether it is exempt or not  
3 and ultimately they don't get the exemption. How  
4 do you know what you're supposed to be counting  
5 against the cap? You know, if there's some lack  
6 of clarity about these over-the-fence loads, it  
7 seems to me from your point of view you want to be  
8 able to track those loads whether they're over the  
9 fence or not that are actually seeking the  
10 exemption, not those loads that the generator  
11 thinks will seek exemption from the exit fee.

12 MS. MANWARREN: Good point.

13 MODERATOR TOMASHEFSKY: We'll have to get you  
14 your own mike.

15 MR. ROMANOWITZ: Yeah, sorry. There's a line  
16 here. Just two real quick comments.

17 I think it's really crucial that this form  
18 not have information that is hard to get or might  
19 be controversial because it's going to delay the  
20 processing of the application and that holds  
21 something that should be up in the cue, out of the  
22 cue. So that's actually got pretty major  
23 implications.

24 And secondly the -- if you look at it from  
25 the standpoint of the departing load, who is

1 applying for the exemption, he gets himself in the  
2 cue and if his friend down the street who is also  
3 getting the departing load doesn't apply, he  
4 doesn't get the exemption and if he misses out on  
5 the cue, then he's out of luck. And sooner or  
6 later he's going to be found out and I've never  
7 seen a utility yet who is not bashful about going  
8 back for anything they find out about, you know,  
9 later on. So, I think, you know, the risk is  
10 there and they're going to be -- it's covered. So  
11 we shouldn't penalize somebody who's applying to  
12 try and identify other things and get into a  
13 controversial situation.

14 MODERATOR TOMASHEFSKY: Okay.

15 Doug?

16 MR. HANSON: Doug Hanson, PG&E.

17 The question that I would pose to you is do  
18 you want to capture the amount of megawatts that  
19 is not paying CRS or do you want to capture the  
20 amount of load that has applied for and received  
21 an exemption by you? That's two different issues.  
22 Part 4 is geared to help you capture how much is  
23 not paying CRS as opposed to capturing how much  
24 has applied to you to be exempt from CRS. Which  
25 one of those two matters to you?

1           MODERATOR TOMASHEFSKY: In the context of  
2       this proceeding I don't think that we're -- we're  
3       just interested in making sure we're accounting  
4       for those who are applying for it and to make sure  
5       that we're not in a situation where there's double  
6       counting or more people are applying for the same  
7       unit of output.

8           I think, and correct me if I'm wrong, I think  
9       we get that in the context of part 3 where we  
10      described the generating facilities. So you've  
11      got the nameplate ratings, you know the capacity  
12      of the generating facility, you know through these  
13      applications what the aggregate total is of all  
14      the exemption requests that are attached to a  
15      particular generating unit. If that's -- if that  
16      number exceeds the nameplate capacity, short of  
17      this peak demand stuff makes the calculation a  
18      little bit more nebulous. Then we may have a  
19      problem. And that's -- what we have to make sure  
20      is we are not overapplying the cap. Load is being  
21      underapplied because customers aren't choosing it.  
22      It's the customers' choice to make that and so by  
23      virtue of them not making it doesn't affect our  
24      cap. By virtue of them making this decision does.  
25      And so we want to make sure that when they make

1 the decision to request the CRS exemption thereby  
2 affect what's in the cap, we want to make sure  
3 that that cap is as accurate as possible.

4 If someone chooses not to apply, that's  
5 another issue.

6 MR. HANSON: I guess I was not sufficiently  
7 clear. A customer has the potential in an over-  
8 the-fence transaction, if not captured and  
9 identified, to effectively not pay the CRS without  
10 the utility or you knowing unless you have a form  
11 ask for it. If they don't pay for CRS, to you is  
12 that relevant or not in administering the cap.

13 MS. HOUCK: Well, if they're not paying for  
14 it and they haven't applied for it and they're not  
15 doing it by following the rules and regulations,  
16 technically they would be required to pay that so  
17 once the utilities finds out they had not been  
18 paying it they could back charge them those  
19 charges if they haven't been approved through our  
20 Commission so technically for our purposes they  
21 wouldn't be included in the count unless they've  
22 applied.

23 MODERATOR TOMASHEFSKY: So what we have here  
24 is the existing rules and regulations that you  
25 abide by now. You would go out to those customers

1     anyway in other forums so those existing rules  
2     would apply there so we don't have to create  
3     another hurdle that way -- well, potentially  
4     provide some of that information but at least in  
5     the scope of minimum information we need for the  
6     exemption, that's where we want to focus our  
7     attention. So yeah, the information will be good  
8     but not for purposes of this.

9           MR. HANSON: Okay. Just wanted to make sure  
10    that I vented that question.

11           MODERATOR TOMASHEFSKY: Sure.

12           MR. TORRIBIO: Jerry Torribio, SDE.

13           Just to comment, I'm not so sure about the  
14    all-knowing nature of account representatives.  
15    I'll give you an example, let's say like all of  
16    the Air Products load goes away. After a certain  
17    point I think the utility would pick up on that,  
18    but smaller generation, smaller projects, changes  
19    in load can get lost in the noise of changes and  
20    business operation of customer B, observation,  
21    what have you. We have a very clear legal  
22    definition of departing load, at least in tariffs,  
23    maybe not in our glossary but I would just put in  
24    a plea not to defer any type of information  
25    gathering on this to the vast body of rules and

1 the ability of utilities to find out about it  
2 later because there's a lot of other issues that  
3 are being dealt with account representatives and  
4 believe it or not I don't think we have a big  
5 board with people watching every customer and  
6 every time consumption falls in a month assuming  
7 that load is recorded for them there are those  
8 fluctuations.

9 MR. TUNNICLIFF: And with Southern California  
10 Edison in our major customer division we had  
11 assigned account representatives that managed the  
12 top 47 hundred or so -- 48 hundred customers meet  
13 the definition of having assigned account  
14 representatives. That leaves the remainder of our  
15 accounts -- we have about 280,000 accounts that  
16 are greater than 20 KW, from 20 to 200 KW -- that  
17 are unassigned. Those customers do have potential  
18 for putting in generation and doing things as well  
19 so I just wanted to make that point from a point  
20 earlier.

21 MS. MANWARREN: I'd like to just throw one by  
22 and that is that I hear what you are saying about  
23 you don't want generators to be doing utilities  
24 business as far as gathering information about  
25 over the fence. It's a good point. However,

1 we're very limited in how we can get that  
2 information. So if there can be but, you know, if  
3 you have a better suggestion for that, let us know  
4 because in the real world we don't get that  
5 information a large majority of the time and there  
6 is a potential for, and I hate to use the word,  
7 but it's pretty common, its gaming the system. We  
8 want to avoid that in the future.

9 MS. WESTBY: And my point was only that this  
10 isn't the place to police your problems with  
11 departing load and nor are you asking the  
12 generator to provide its load, you're asking one  
13 customer to guess who its generator is going to be  
14 serving. One customer for another customer's  
15 information and that's inappropriate in my mind.  
16 It's not the generator doing this form, it's the  
17 customer.

18 MS. MANWARREN: You're over-the-fence  
19 customer will be your customer of record at that  
20 point; correct, as generators?

21 MS. WESTBY: It's not the generator filling  
22 out the form, it's the departing load who will be  
23 responsible for getting the exemption. So in a  
24 case where you have ownership on site of a  
25 generating facility and let's say you have an on-

1 site use facility and an over-the-fence use  
2 facility, let's take those three facilities.  
3 Let's say there is unrelated ownership of all  
4 three facilities.

5 MS. MANWARREN: Okay.

6 MS. WESTBY: Okay.

7 MS. MANWARREN: Unaffiliated?

8 MS. WESTBY: Yeah, unaffiliated.

9 Then I am the customer load and I'm going to  
10 seek an exemption from Scott and it's me applying  
11 for the exemption and you're asking me to give  
12 information on another customer. I'm not the  
13 generator, I'm a customer receiving service from a  
14 particular generator so I don't think it's fair to  
15 ask me as a customer to give you information about  
16 another customer who may be served by the same  
17 generator. That's my point.

18 MS. MANWARREN: Point made.

19 MODERATOR TOMASHEFSKY: Okay.

20 Chris, you want -- before you get chastised  
21 to come up to the mike.

22 MR. TUFON: Chris Tufon, PG&E.

23 Just the one comment that the gentleman made  
24 about utilities not being bashful about billing  
25 back, that's true. And we also credit back when



1     necessary so -- just to keep the record straight.  
2     I have actually gone back and credited customers  
3     with three years because we've made some errors,  
4     you know, and we like to do that.

5             But now back to departing load. In PG&E's  
6     service storage area we find a whole lot of  
7     customers that left the system. We find out  
8     sometimes three years later when we go to a  
9     conference or we're talking and then the customer  
10    says, well, by the ways would that -- just  
11    inadvertently don't tell us. That's how we find  
12    out most of the time and sometimes it's kind of  
13    late.

14            We're really urging you guys to come up with  
15    some -- I mean just help us out here. Because  
16    it's something that the system has gained a lot.  
17    Customers never volunteer to tell the utilities  
18    when they leave the system so if there's a way --  
19    we need solutions that -- you can help.

20            We thought part 4 would be a really nice way  
21    to deal with this problem but I find we're getting  
22    some resistance.

23            MR. HANSON: One thing I had said earlier in  
24    a different context was that on these over-the-  
25    fence transactions they have implications for the

1 interconnection application if the exemption  
2 application was tied with and simultaneous with  
3 the interconnection application then I think this  
4 might not be an issue. Everybody would be  
5 together and we would know that there was an over-  
6 the-fence situation, the utilities could make an  
7 approach to the other customer to find out that  
8 they think they need to know. But I think we have  
9 by choice already decided that we don't want the  
10 exemption application to be tied to the schedule  
11 and pace of the interconnection application so  
12 maybe the people that had the concern about  
13 getting to disclose information about other  
14 customers, maybe they could suggest an alternative  
15 that involves at least giving some indication that  
16 this is going to be part of the -- some sort of a  
17 flag rather than just -- no mention of -- I'm not  
18 sure what the suggestion is for a change here, but  
19 that would be helpful. Just keep in mind that we  
20 won't be seeing the interconnection applications  
21 necessarily at the time these exemption forms come  
22 in.

23 MODERATOR TOMASHEFSKY: But is it important  
24 to have that information at the time of the  
25 interconnection application or is -- I mean, if

1     you don't have this information up front here, is  
2     it necessarily problematic from the standpoint of  
3     trying to take over-the-fence transactions?

4           MR. HANSON: Well, when we get an  
5     interconnection application it's even more just a  
6     matter of system integrity. We would like to see  
7     identified on the electrical schematics and other  
8     information that's provided to us if there is this  
9     electrical connection that goes through another  
10    customer and perhaps ultimately to another utility  
11    point of service. So from a technical point of  
12    view we want to know about it and --

13           MODERATOR TOMASHEFSKY: And the basic  
14    question is is this the right form to do that.  
15    That's probably what it comes down to. When we're  
16    looking at what is -- again, going back to the,  
17    what's minimum amount of information to determine  
18    a CRS exemption. Do you need this? Probably not.  
19    Do you need it for other things to make sure that  
20    certain things aren't coming on? Probably. So  
21    this is probably, stick it in here, or probably  
22    not stick it in here is probably what we're coming  
23    down to.

24           MR. HANSON: It may go back to the question  
25    that the gentleman from San Diego Gas and Electric

1 brought up, do you -- does the Energy Commission  
2 just want to know who has applied for an exemption  
3 or how many megawatts or perhaps more extensive  
4 knowledge about who's not paying the exemption and  
5 I can -- that's a question to be answered.

6 Going back to the Commission decision, the  
7 whole mechanism of caps seems to be or I would  
8 submit that it is designed to set some limits,  
9 some boundary on the number of megawatts to the  
10 amount of departing load that will be exempt. So  
11 by implication the decision did not exempt all  
12 departing loads so somewhere between the two  
13 agencies I would think there would be an interest  
14 in knowing how much departing load was not  
15 capturing the charges of the CRS.

16 MODERATOR TOMASHEFSKY: Okay.

17 What we can do as we work through this, I  
18 think what we should do is we should raise it to a  
19 rules committee and get their perspective on that.  
20 We can also address that issue with the PUC at  
21 least in terms of -- the point's well taken, at  
22 least in terms of potentially what value the  
23 information has, whether it belongs here is a  
24 really the question and once we resolve that  
25 question, then we can can kind of move on to say,

1     okay, how do you deal with this issue whether it's  
2     here or somewhere else.

3             Why don't we leave it at that. We're going  
4     to try and brief our committee this week and bring  
5     them up to speed on some of this stuff and we can  
6     address further during the September 24th.

7             I appreciate your comments.

8             We'll go on.

9             MS. MANWARREN: Well, I just want to go in  
10    one more thing on this and then I'll get off it.

11            MODERATOR TOMASHEFSKY: Okay. Sidebar.  
12    Sidebar comment. Okay.

13            MS. MANWARREN: Okay.

14            Basically, just thinking about everybody's  
15    comments and everybody's concern. The utilities  
16    mandated work with the CEC to come up with  
17    solutions. Part of what we're also mandated with  
18    is understanding that there is no unnecessary cost  
19    shifting for these fees which is already happening  
20    by a lot of these exemptions that are being handed  
21    out. We have to make sure -- these fees have to  
22    come from a pot from somewhere and if the proper  
23    people are not getting these -- that are getting  
24    these exemptions that should not be getting these  
25    exemptions, the utilities have a concern and a

1 compliance issue. If a generator is, as a side,  
2 generating 10 megawatts, then based on nameplate  
3 capacity, that's information the CEC is basing  
4 their exemptions on. If, however, they are  
5 generating -- and this is up for argument. I  
6 understand that. If in fact the load -- the base  
7 load is five megawatts and that is what the  
8 utilities are going to bill them on and grant  
9 their exemptions separate from the cap, that's a  
10 discrepancy. That's a five megawatt load  
11 discrepancy that could potentially be over the  
12 fence. So it gets very complicated and we're  
13 trying to provide a mechanism to capture that  
14 information and be as -- the least burdensome as  
15 possible but we have an interest in knowing where  
16 these exemptions are going.

17 End of comment.

18 MODERATOR TOMASHEFSKY: Okay.

19 MS. WESTBY: And unfortunately if we're going  
20 to keep going, I have to provide my last comment  
21 which is, I'm a lawyer and I sit and I think, what  
22 do these forms mean for my client. And if I have  
23 one client obligated under a form, under  
24 regulations, to report on its neighbors, I have a  
25 problem with that from a legal perspective.

1     What's my obligation if I don't know who that  
2     generator is serving and I've filled out the form  
3     and not put anyone's name in there?  What if I put  
4     the wrong meeting account?  What if I've given you  
5     the information incorrectly.  These forms  
6     undoubtedly since they are under regulation will  
7     be somehow under the CEC penalty scheme for  
8     reporting, I'm sure, and I don't want to get in a  
9     situation where I'm bound to report on my  
10    neighbors and subject to penalty if I misreport.

11       MS. MANWARREN:  Understood.

12       MODERATOR TOMASHEFSKY:  No more comments.

13       MR. TUNNICLIFF:  You need a gavel.

14       MODERATOR TOMASHEFSKY:  Okay.  Part 5.

15       Back to you, Dan.

16       MR. TUNNICLIFF:  Are you planning on plugging  
17    through and finish -- how quickly?

18       MODERATOR TOMASHEFSKY:  I think we can finish  
19    within a half an hour.

20       MR. TUNNICLIFF:  Okay.

21       Part 5 has not changed substantially since  
22    the last time.  We still believe that we -- this  
23    is the type of information that the utilities need  
24    to provide and provisionally categorize these  
25    projects.

1           What we've done is we've moved a section that  
2 followed this, I believe it was the following  
3 section but later on in the application it talks  
4 about the conditions that need to be met before  
5 final categorization could be granted so this  
6 hasn't changed since last time.

7           MR. DUGGAN: Kevin Duggan from Capstone  
8 Turbine Corporation.

9           The issue I have with this is the first of  
10 the points on part 5 which requires some forms to  
11 be submitted to comply with the requirement that  
12 you are eligible for financial incentives. Now  
13 eligible for financial incentives doesn't mean  
14 that you will receive a financial incentive, yet  
15 those forms indicate that you are about to receive  
16 a financial incentive. In fact, the decision  
17 refers to eligible for financial incentives, but  
18 also to clarify the point that I'm making in the  
19 decision itself there are places that refers to  
20 eligible for incentive programs and things like --  
21 I think words of that nature.

22           MR. TUNNICLIFF: Yeah.

23           MR. DUGGAN: So it's not really saying -- so  
24 what you could say is that the forms you've got  
25 listed there sufficient to demonstrate your



1 eligibility but they are not necessary. You can  
2 in fact demonstrate eligibility for those  
3 exemption by demonstrating that you would meet the  
4 eligibility criteria for the -- for example, the  
5 CPUC program without necessarily receiving  
6 incentives. There are a number of reasons you may  
7 be eligible but not receive the incentive.

8 MR. TUNNICLIFF: Yeah, we addressed that and  
9 we spent some time talking about that last time  
10 and we do agree that some projects may not -- may  
11 be eligible but for reasons that you've exceeded  
12 or that the funding levels have been capped out  
13 for the year that the -- other than that the  
14 project would have been eligible.

15 One of the things we felt was definitely  
16 necessary was tying it to some definite step in  
17 the self-gen incentive program process. For San  
18 Diego Gas and Electric, for instance, they do not  
19 manage their own self-gen incentive programs so  
20 they have to rely upon San Diego Regional Energy  
21 Office to tell them who and manage that process.  
22 My organization in Southern California Edison, we  
23 had a separate entity within our company that  
24 manages the self-gen incentive program so we need  
25 to rely upon their criteria and going through that

1 screening mechanism to determine whether or not  
2 something is eligible. We chose that step on  
3 reservation confirmation incentive for  
4 illustrating that eligibility.

5 MR. DUGGAN: So I'm still not clear as to  
6 exactly what that means. Are you saying that this  
7 is illustrative only and there are other ways of  
8 complying? That there would be other forms that  
9 could be used or other things --

10 MR. TUNNICLIFF: No, I'm not saying that.  
11 I'm saying that we don't manage a self-gen  
12 incentive program and the criteria that they -- we  
13 -- the utilities or who would be managing this  
14 process, this application process or the  
15 interconnection process, do not manage a self-gen  
16 incentive program. So those self-gen incentive  
17 program administrators determine eligibility. We  
18 could go through the numbers but you can look at  
19 the number of projects we've had out apply, and a  
20 certain number do withdraw because for whatever  
21 reason, but many of them do not make it through  
22 the program and do not receive incentives because  
23 they are not eligible and we only determine that  
24 once they have gone through the self-gen incentive  
25 program. So we have to tie it to some step in

1     their process.

2           MR. DUGGAN:  You mentioned earlier on though,  
3     and with the exception of potentially the gas  
4     company which I think is just about out of money,  
5     at least some levels -- the others have got money,  
6     but there is the situation where an applicant may  
7     be eligible for the program but not receive the  
8     incentive and not therefore receive the final  
9     forms.  And it's in those situations that I'm most  
10    concerned about.  That that applicant, I believe,  
11    is eligible for the exemption according to the  
12    departing load charges that may in fact not be  
13    able to supply the forms that this form requires  
14    to demonstrate that eligibility.  And I'm not too  
15    sure how to address that except to say that what  
16    may be appropriate is that the application for an  
17    incentive may need to be filed with you guys or  
18    with somebody who can then eventually submit it  
19    with the incentive program folks and that they  
20    then respond with a statement of eligibile or not  
21    eligible, not necessarily a statement of financial  
22    incentives awarded.

23           MODERATOR TOMASHEFSKY:  So you're looking  
24    for -- are you looking just in this specific  
25    example of the program is overprescribed but you

1 can submit the things in short of -- short of the  
2 fact that there isn't any available funding for  
3 that particular incentive, the application would  
4 at least be processed essentially.

5 MR. DUGGAN: That's one situation whereby the  
6 applicant may be eligible for funding but does not  
7 get funded. There are other situations that limit  
8 their eligibility for funding. In the handbook on  
9 the program there is a section and chapter that  
10 deals with the eligibility criteria. And then  
11 there's another chapter that places some financial  
12 parameter or constraints around whether they  
13 actually get money or not. One of them is whether  
14 there is enough money in the fund and another is  
15 whether they have exceeded their allowance for the  
16 year for that individual customer, where there's a  
17 corporate cap, I think.

18 MR. TUNNICLIFF: Well if they exceed the  
19 corporate cap, they wouldn't be eligible.

20 MS. MANWARREN: For that year.

21 MR. DUGGAN: That's right. But that  
22 restriction is placed in -- is not part of the  
23 eligibility criteria within the handbook, that's  
24 in another part of the program.

25 MR. TUNNICLIFF: Are you saying like if they

1 reach their corporate limit for that year but they  
2 may have still their overall limit of five  
3 megawatts or --

4 MR. DUGGAN: I'm not really saying that at  
5 all. I'm saying that the corporate cap is in the  
6 same category of constraints on the program as the  
7 overall financial cap and that within the handbook  
8 when they define the program, they have a list of  
9 eligibility criteria which define eligibility for  
10 a financial incentive on the one hand and then in  
11 another chapter in that book they have another set  
12 of criteria which includes the available -- the  
13 caps, the availability of funds and this -- I  
14 think there's three of them in total but I don't  
15 recall them all but they are elsewhere.

16 And I think what we're doing here is -- and I  
17 think what the decision is saying is eligibility  
18 for financial incentive which I will interpret to  
19 mean that you meet the eligibility criteria as  
20 listed in their program.

21 MODERATOR TOMASHEFSKY: Now, Kevin, are you  
22 suggesting -- is taking that one step further,  
23 you're not -- it doesn't sound like you're  
24 suggesting that. You take that eligibility notion  
25 one step further then if you have any unit it

1 doesn't even submit an application, say, for  
2 example, you think now you're running something  
3 that's eligible for level 3 or level 2 or  
4 whatever, but you choose not to submit that. When  
5 that application for an exemption comes our way,  
6 is there any suggestion that that should also be  
7 considered eligible or does it have to be some  
8 sort of paperwork? I understand you established a  
9 connection between submitting the application and  
10 getting reservation confirmation or submitting the  
11 application and getting some confirmation that it,  
12 well, fundings have already been exhausted but you  
13 would have been eligible for all practical  
14 purposes.

15 Then there's this third pot that you've got  
16 just kind of sitting anywhere in California that  
17 would be technically eligible for funding under  
18 this but we're not going to go ahead and apply it  
19 and that still becomes a criteria for being  
20 eligible. You're not suggesting that; are you?

21 MR. DUGGAN: Well, yes and no. I don't think  
22 you can just say I've got -- that third category  
23 you have to provide evidence that that third  
24 category of technology is eligible for a program  
25 and to do that you will be forced back in the

1 second category you described which is --

2 MODERATOR TOMASHEFSKY: Submitting  
3 something --

4 MR. DUGGAN: Yeah, submitting something. And  
5 I'm not clear on what you submitted except that  
6 you probably submit the application form to the  
7 utility saying I'm exempt from these departing  
8 load charges because I am eligible for an  
9 incentive program and this is my data sheet that  
10 shows my project is eligible for the exemption.  
11 And then it -- the -- I guess the tariff folks or  
12 whoever deals with this in the utility would want  
13 to pass it on to their incentive program folks to  
14 get down to action.

15 MR. TUNNICLIFF: The reason for putting, you  
16 know, tying it to this level, or this stuff is  
17 you're going -- if your in a self-gen program or  
18 seeking eligibility for that program you're going  
19 to go through whatever utilities self-gen  
20 incentive program -- if there's another iteration,  
21 the Commission could designate and open it up to  
22 other people that wanted to administer self-gen  
23 incentive programs. No one knows what's going to  
24 happen to that program later on but it's  
25 definitely going to go through a different process

1 other than this so tying it to the self-gen  
2 incentive program administrator saying, yes this  
3 program or project is eligible, that's what we're  
4 relying on because they do all the analysis, they  
5 do all the verification of the equipment, they do  
6 all of that so it just becomes a pass-through  
7 essentially. We attach it and send it off.

8 MR. DUGGAN: Yeah, I'm sure that's what you  
9 do. I'm just saying that this whole deal  
10 literally is asking that for the reservation,  
11 confirmation and state of claim form which as I  
12 understand it is the form you get when you have  
13 been awarded the financial incentive and I'm  
14 talking about a situation where the customer for a  
15 range of reasons may not receive that form so may  
16 not have it. May be eligible for the departing  
17 load incentive but may not have received an  
18 incentive or never received that form.

19 MODERATOR TOMASHEFSKY: So, for example, if  
20 you struck the language and just basically said --  
21 just changed it to say provided copy of the  
22 application for the incentive funds, and so then  
23 it becomes the utilities' discretion as to whether  
24 they say, okay, well we've got a confirmed  
25 reservation, you're eligible, or if the funding



1 issue is a problem, they can say, well, we --  
2 you're not eligible from a funding standpoint  
3 based on our determination we can go ahead and say  
4 you're eligible for purposes of meeting the CRS.  
5 Then you'd be in good shape in that case but it  
6 does -- it does take away one notion. The utility  
7 can say, yeah, there's other avenues for them to  
8 make a determination but the only thing they need  
9 to get from you is the application for the  
10 exemption.

11 MR. DUGGAN: Right.

12 MODERATOR TOMASHEFSKY: The self-gen funds.

13 MR. DUGGAN: Right.

14 MODERATOR TOMASHEFSKY: Is that something  
15 you'd be comfortable with? Are you -- what it  
16 does is it basically -- somebody still can say,  
17 well, no, not eligible on that criteria based on  
18 the application.

19 MR. DUGGAN: What we would want or what the  
20 utilities I think want in that part of the  
21 decision is eligible for the exemption. And there  
22 may be issues and we agree that there could be  
23 issues that if it had not been for something  
24 purely, you know, logistically or what have you  
25 this technology of this generating facility would

1 be eligible. We don't know a better process or a  
2 better step in that overall assumption instead of  
3 a program flow diagram in which we can clearly  
4 say, yes, they've gone through all steps. We  
5 should be able to make some sort of concession but  
6 I think that's the important step. It's already  
7 been evaluated. It's already been looked at by  
8 the program administrators as being eligible and  
9 if it's purely related to they've be exceeded  
10 their cap, that corporate cap or what have you for  
11 that year, that may be something we can work  
12 around but, you know, I think we feel pretty  
13 strongly that this is the right step, at least our  
14 program administrator concurred that this looked  
15 like the right step for eligibility.

16 MR. DUGGAN: Well the program administrators  
17 have a different objective and that's probably why  
18 they reached their conclusion with respect to that  
19 flow diagram. And I don't understand why you said  
20 that you can't find in that flow diagram a better  
21 mechanism. It's because that flow diagram was not  
22 developed for our purpose. I think there is a  
23 better mechanism and I think Scott described that  
24 mechanism. There's something missing from the  
25 flow diagram. It's not there because that diagram

1 for the incentive program is not developed with  
2 what we're doing here in mind and that is the step  
3 that says, here's the certificate that says this  
4 program is eligible and then chapter 3, is there  
5 enough money available or other financial  
6 constraints limiting this. That's an unnecessary  
7 step. The financial constraint part is an  
8 unnecessary step for achieving the requirements or  
9 determining whether the project is or is not  
10 exempt. And yet, this, what you've got here in  
11 part 5, is saying you require an unnecessary step  
12 to be completed which is -- you did financial  
13 incentive. And that's what's wrong with this.  
14 Then I think the suggestion that we will -- you  
15 know, when we get to a point where financial  
16 constraint comes into place, we'll have to work it  
17 out from there -- it's not satisfactory.

18 MR. TUNNICLIFF: And it's not really  
19 satisfactory for us to really vary from that  
20 established program and I think it almost begs the  
21 question to get resolution from the Commission as  
22 far as the term "eligibility." I think, you know,  
23 when that came up in the last session in which we  
24 met, maybe last month, about what does the term  
25 "eligibility" really mean and we really have to

1 defer to what the intent is and how they plan on  
2 using the self-gen incentive program. The thing  
3 we were trying to deal with is -- and we heard  
4 comments early on in the first workshops, yes, the  
5 self-gen incentive program makes sense. It's a  
6 good model to follow for looking through,  
7 verifying technologies, and things like that, yes,  
8 follow that process. So by tying it to something  
9 that's already in place, we feel that that's the  
10 best way to do it. If you had other suggestions,  
11 we can definitely deal with those but I think this  
12 is the position where we, you know, at least tie  
13 into this stuff right now, is where we'd like to  
14 leave it.

15 MODERATOR TOMASHEFSKY: And the only other  
16 logistical problem surrounding all of this is that  
17 suppose you are not generating solely and goes  
18 back to that customer generating solely and if a  
19 generator is applying for an exemption can --  
20 well, applying for financial incentives, and they  
21 get their system operational, while the customer  
22 then might be tying in -- but if it's a customer  
23 generator through a connection -- if it's not a  
24 customer generator, the customer that's tapping  
25 into, let's say one of Kevin's units, doesn't have

1     this information, doesn't have an application for  
2     incentive on his reservation confirmation. He's  
3     gone past that. It wasn't done with seven eleven  
4     or something like that so you're going to have  
5     this demarcation between what the generator  
6     provides to the utility and what's on file with  
7     this only one customer requesting and what the  
8     customer actually has access to. They probably  
9     don't have access to a lot of this information  
10    because they are not generating solely so that  
11    creates a little bit of a logistical paper trail  
12    problem.

13           MR. TUNNICLIFF: Yeah. And I think the self-  
14    gen incentive program is just sort of on site load  
15    only.

16           MODERATOR TOMASHEFSKY: That's right. And so  
17    to the extent that it's not going serve on site,  
18    well it would be up to Kevin to come up with a way  
19    to deal with that.

20           MR. TUNNICLIFF: And that seems like it needs  
21    to be resolved with the CPUC because they would  
22    not otherwise be determined or be eligible and I  
23    don't know that we're in a position to say, yes,  
24    you would be eligible if it had not been for the  
25    fact that you had served another load, other

1 facility. I don't know.

2 MS. MANWARREN: Not a sidebar but a comment.

3 For the 17.5 over-the-fence scenario of the  
4 CTC exemption, the exemption that the generator is  
5 granted transfers to the over-the-fence customer.  
6 I would think that it would be the same scenario  
7 in what we're talking about here in the CRS. So  
8 if it could be documented that the generator is  
9 exempt, then it necessarily following that the  
10 over-the-fence customer is going to be exempt.  
11 That would be my take on it.

12 Comments?

13 MODERATOR TOMASHEFSKY: If your a customer  
14 generator, it's no problem. Again, you get into  
15 the situation where several customers are feeding  
16 into a generating facility, you tend to personify  
17 when a facility that's actually generating and the  
18 customer is actually getting the financial  
19 benefits, if you will, of the agreement and that's  
20 -- it's not so clear. Like Dan said, it's kind of  
21 designed for the self-gen customer that is using  
22 all of its load on site and then it's much more  
23 clean cut so you have all the paperwork so we're  
24 going to have to give that some thought as to how  
25 to deal with that.

1 Yes?

2 MR. MURLEY: Clyde Murley, with Grueneich  
3 Resource Advocates speaking on behalf of BOMA  
4 right now.

5 I'd like to mostly echo Kevin Duggan's  
6 comments and concerns. It seems to me that the  
7 requirements of this form, if indeed it is  
8 necessary to provide a copy of the reservation  
9 confirmation incentive claim form in order for a  
10 utility to deem that system to be qualified, it  
11 strikes me as overreaching. I think if the  
12 Commission had meant for their to be a requirement  
13 to be receiving financial incentives under the  
14 self-gen program it would have stated that in the  
15 relevant order and paragraph; it did not. So I  
16 think it is a stretch to say that only way to  
17 interpret eligibility is the receipt of the  
18 financial incentive and I think perhaps  
19 consultation with the PUC would be appropriate  
20 because reading the decision, the body of the  
21 decision, I don't think that's the intent. I  
22 think it's clearly not the intent and I wouldn't  
23 like to let the matter rest with the current  
24 version of this form.

25 MR. TUNNICLIFF: And the previous versions, I

1 think the first version that we had called out  
2 that proof of project advancements staff where the  
3 utility gets all the information for the customer  
4 applying. See, that's the information you need to  
5 determine whether or not self-gen incentive  
6 program would be eligible, you know, actually  
7 continue to progress and again that's -- this is  
8 the stuff that follows after the utility or the  
9 self-gen incentive program administrator looks  
10 through all of that application and says, yes,  
11 this looks eligible. So.

12 And I think I agree with you that we need  
13 further clarification from the PUC as to what we  
14 really need to do to manage that part of the  
15 process.

16 MODERATOR TOMASHEFSKY: Okay. Any other  
17 questions with part 5?

18 MR. DUGGAN: So pending that input from the  
19 PUC on what they intended here, can we see this,  
20 this formal future drafts of this form exclude  
21 those two bullet points until we know what we've  
22 got to say there, what the PUC wants us to say  
23 there.

24 MR. TUNNICLIFF: You know, I don't know how  
25 to necessarily respond to that because the



1 utilities have our responsibility to administer  
2 our tariffs that go along with these decisions and  
3 we're going to tie our eligibility for incentives  
4 or eligibility for the self-gen incentive program  
5 to the existing processes.

6 MODERATOR TOMASHEFSKY: Let me ask you this,  
7 Kevin. Let me restate your question. Is it  
8 acceptable for a customer to have those two  
9 bullets not part of the form and have the utility  
10 determine how they make that determination without  
11 any clarification on the form for you.

12 MR. DUGGAN: Yeah, you can take the bullets  
13 out and the utilities will have it in the  
14 background as a basis for determining it. What  
15 I'm concerned about is that from what Dan is  
16 saying there is uncertainty about what the right  
17 wording is here, what the right criteria is and  
18 that uncertainty requires input from the Public  
19 Utility Commission and so what I'm saying is that  
20 given there is uncertainty and given this may not  
21 or may be the right wording to go here, we should  
22 leave it blank at this stage or say "to be  
23 determined" rather than say this is the default  
24 option while we're waiting. Let's note in the  
25 form since we note "to be determined" rather than

1 put this language in here at this stage when it's  
2 not determined and agreed to be the language, or  
3 even decided by the PUC would be the appropriate  
4 language.

5 MS. TESSLER: I was just going to suggest why  
6 don't we add a third category that says "other  
7 proof to be determined" rather than taking it out.

8  
9 MR. TUNNICLIFF: Retain this as a place  
10 holder.

11 MS. TESSLER: Yes.

12 MR. TUNNICLIFF: Yeah the logical step --

13 MR. DUGGAN: For other proof to be determined?

14 MS. TESSLER: Pardon?

15 Yeah, there's one, two things listed now so  
16 we list a third that says "other proof to be  
17 determined."

18 MR. DUGGAN: Yeah I think that works. It  
19 sounds like that might be good.

20 MR. TUNNICLIFF: Because it retains that  
21 issue that we need to clarify.

22 MODERATOR TOMASHEFSKY: Okay.

23 Resolution is a wonderful thing at 12:30.

24 Thank you.

25 Okay. Moving on.

1           MR. TUNNICLIFF: Part 6. It was previously  
2 further back in the previous version. We moved  
3 some information about the use of heat from the  
4 previous part 5. We've made a few modifications  
5 to the calculations, not in how they were  
6 calculated but how they're laid out so as to  
7 hopefully make it easier to complete and verify  
8 the calculations. So --

9           MR. DUGGAN: At the risk of going back into  
10 plowed grounds, if in fact a determination is in  
11 compliance with 2007 standards is what everybody  
12 agrees is what we're looking for for part 6, one  
13 of the things you could do is add a box at the  
14 very top that says, "is this a certified unit" and  
15 if the answer is "yes," then you don't fill out  
16 the two pages. But again, inclusion of that box -  
17 - I think the box is a real good idea, but the  
18 point is it's a pendulum, the determination you  
19 get.

20          MR. TUNNICLIFF: Do like what we did in the  
21 previous section, maybe we put another line item  
22 that says something, you know, "possible  
23 certification," and "stop here."

24          MR. DUGGAN: Um-hum.

25          MR. TUNNICLIFF: Something like that.

1       Because I don't have any idea what that might look  
2       like and -- okay.

3           MS. MANWARREN: I'd like to also point out if  
4       I could that we're not simply talking about  
5       category 1 here under 1 megawatt or up to a  
6       megawatt or even 1.5. We've also got to take into  
7       account category 2 and category 3 which would be  
8       extremely large in size and where efficiency  
9       becomes a major role and not just the --

10          MR. SOLT: And therefore they would not be a  
11       certified unit so there's no problem there.  
12       Certified units are only those that are so small  
13       that they do not require permitting.

14          MS. MANWARREN: I understand. But we just  
15       have to allow for the form the other scenario.

16          MR. SOLT: Oh, yeah. You've got to have the  
17       two pages, the box up at the front that says, give  
18       your certified unit . . .

19          THE REPORTER: He needs to use the  
20       microphone.

21          MODERATOR TOMASHEFSKY: Okay. Sorry.

22          MR. ROMANOWITZ: Hal Romanowitz, Oak Creek  
23       Energy.

24          My point is similar also that again if you're  
25       not operating by combustion then that should be

1 separated from those units that are operating by  
2 combustion because if you're not operating by  
3 combustion, then all the rest of the form gets  
4 confusing. It's just not applicable.

5 MR. TUNNICLIFF: Yeah, because what you're  
6 saying is in the definition of 353.2 definition  
7 says generating facility or produces zero  
8 emissions, stop. That's a line item and that  
9 would fit your category. And then or if you  
10 operated in the combined heat and power  
11 combustion, you have to operate in a combined heat  
12 and power application. "Complete the rest of this  
13 form." Is that what you're --

14 MR. ROMANOWITZ: Right. I think actually  
15 what you have to do is probably break it just a  
16 little bit differently because it's -- it produces  
17 zero emissions and not operating by combustion --  
18 well, I guess there would be some -- however, but  
19 in any case if you're not operating by combustion,  
20 if it's wind turbine and you didn't have to do any  
21 more. And that's the primary thing. I don't want  
22 to --

23 MS. MANWARREN: We totally agree. When the  
24 utilities were having a workshop on designing this  
25 thing trying to make this practical, it's possible

1 the idea kind of kind of moving on a pass form,  
2 "if this doesn't apply, skip this section."

3 MR. ROMANOWITZ: Right.

4 MS. MANWARREN: That would simplify it a  
5 great deal so we'll try to put that on there.

6 MR. ROMANOWITZ: Yeah. I'm sorry. I missed  
7 the last workshop so --

8 MS. MANWARREN: Oh, no no. This was an off-  
9 site

10 MR. TUNNICLIFF: But I think what we intended  
11 to do, tried to do, is align this definition with  
12 how it's defined in the 353.2 --

13 MR. ROMANOWITZ: Yes.

14 MR. TUNNICLIFF: -- and it doesn't  
15 necessarily meet your needs -- or drop you out of  
16 having to complete anything else or causing  
17 confusion for a project that has zero emissions.

18 MR. ROMANOWITZ: Right. I think one of the  
19 critical points of this whole thing is mostly the  
20 discussion I've heard today is, you know, there  
21 are many points where uncertainty can be created  
22 which can reject an application at the utility  
23 level and we want to avoid that and make sure that  
24 applications go in clean and can be processed  
25 through. I think that's a critical objective.

1       Yeah.

2               Thank you.

3               MODERATOR TOMASHEFSKY:  So, Dan, it's just a  
4       little formatting stuff to deal with.

5               MR. TUNNICLIFF:  It seems like it.  And then  
6       it's all pending too.  We need more clarification  
7       from CARB about what exactly we need to do and  
8       again whatever that is, you know, we're amenable  
9       to that.

10              MODERATOR TOMASHEFSKY:  Any other comments on  
11       that?

12              Okay.

13              MR. TUNNICLIFF:  Part 7 hasn't changed since  
14       the last generation -- I don't believe it's  
15       changed, though let me check --

16              MR. SOLT:  Let me make the same suggestion  
17       here that I made on part 6, and that is get the  
18       facility as a qualified QF -- a certified QF,  
19       excuse me.  You have a box that that he can check  
20       that says is he -- is there a certified QF  
21       certification.  You don't need boxes filling out  
22       the pages.

23              That brings up another interesting point.  I  
24       would disagree violently with your definition of  
25       QF back in your glossary but that's but that's a

1 different thing.

2 MS. WESTBY: And the only comment I had is I  
3 imagine this piece will go away from the form  
4 under your jurisdiction since it's a CTC  
5 exemption; is that correct?

6 MODERATOR TOMASHEFSKY: Well, the CTC portion  
7 is relevant to the exemptions. It's one of the  
8 four components.

9 MS. WESTBY: Yes.

10 MODERATOR TOMASHEFSKY: So we need to have  
11 that.

12 You can avoid the tail CTC as part of  
13 the --

14 MS. WESTBY: Right, but are you administering  
15 that?

16 MODERATOR TOMASHEFSKY: In terms of the full  
17 or partial exemptions, no. That's the way it's --

18 MS. WESTBY: Okay. Well, in that event the  
19 only thing I have and I'm sorry I didn't catch it  
20 on the first time through is there are four boxes  
21 to check. First, I agree with Chuck, but if you  
22 get into checking the exemption qualification.  
23 The third qualification is subsumed by the fourth  
24 which is that it is located on the same parcel of  
25 land that is a part of 218 itself and I think that



1 the use of the term "parcel" is confusing. I  
2 would suggest just deleting that particular line  
3 which since it's already dealt with in the  
4 following line.

5 MODERATOR TOMASHEFSKY: Okay.

6 Any problems with the calculations at all?

7 Nothing's change from that. Those are  
8 straightforward calculations.

9 Okay. Part 8.

10 MR. TUNNICLIFF: Part 8. This was -- this is  
11 the section that was relocated back here. We  
12 delineated or called out the fact that this is to  
13 be completed by the utility. And this is part of  
14 the provisional categorization. Final  
15 categorization is based on many different steps  
16 and this is a spot that we had intended for the  
17 utilities or where I was doing this to specify the  
18 following conditions must be met before you can  
19 receive final categorization. And in doing so  
20 wanted to be able to drop down and look at the  
21 various components that the customer of the  
22 generating facility of the departing load would be  
23 exempt from nonbypassable charges and this is  
24 something that clearly shows a customer of a  
25 specific installation what are you going to be

1     exempt from, so if you meet the conditions for  
2     final categorization and we thought it was  
3     important to draw it out and at least use that as  
4     a mechanism. You know, I know we were talking  
5     about stripping out various components that were  
6     not necessarily related to the CRS but with this  
7     information provided, we can also make a  
8     determination on standby exemptions but we wanted  
9     to just -- that's further down at the bottom but  
10    we just wanted to use that as a place holder for  
11    that as well.

12           So I think with this information that's  
13    contained in the rest of the application we can  
14    provide exemption from other things that may be  
15    outside of this but we have the information that's  
16    just useful to call it out for customers.

17           MODERATOR TOMASHEFSKY: Okay.

18           So from the standpoint of stripping it out,  
19    give us -- well, is it an internal form that's  
20    attached to the exemption form? Does it give the  
21    perception that we're asking for more than we're  
22    actually required to do, so --

23           MR. TUNNICLIFF: Well, we're going to --

24           MODERATOR TOMASHEFSKY: I mean, otherwise  
25    your going to end up with just the first four

1 categories in the billing components and that's  
2 the end of it. The rest kind of disappears.

3 MR. TUNNICLIFF: That's correct. Those  
4 things follow based on exemptions from, you know,  
5 any of the departing load exemptions so keeping it  
6 together is good and letting everyone know what  
7 they'll be eligible for.

8 MODERATOR TOMASHEFSKY: Okay.

9 Is there concern about having that additional  
10 information in the form? It's not an addition  
11 piece of information that's required from  
12 customers but it has all of the exemption  
13 information contained here. And the look at the  
14 public purpose charges and the trust transfer  
15 account and the non -- the nuclear  
16 decommissioning, those type of things. Is there  
17 an objection to having that as far as part 8, at  
18 least from an administration --

19 MR. TUNNICLIFF: The customers not completing  
20 it, it's the utility telling the customer what  
21 they're going to be eligible for based on final  
22 categorization.

23 MODERATOR TOMASHEFSKY: So you just have them  
24 here for the purpose of -- it's just easier for  
25 you to administer it.

1 MR. TUNNICLIFF: We're telling everyone what  
2 to expect.

3 MS. MANWARREN: It also is a footprint for  
4 dispute resolution if that happens or the ability  
5 to cure process. It gives a little bit of the  
6 reasoning behind granting exhibit provisional  
7 exemption or not.

8 MR. TUNNICLIFF: You mean the following --  
9 the top section.

10 MS. MANWARREN: Yeah.

11 MODERATOR TOMASHEFSKY: So it's not  
12 technically needed for this proceeding but it's  
13 there for purposes of administering various  
14 surcharge exemptions --

15 MR. TUNNICLIFF: Yes, this is --

16 MODERATOR TOMASHEFSKY: Providing information  
17 to the customers.

18 MR. TUNNICLIFF: Right. This is for the  
19 utility to complete and so --

20 MS. WESTBY: I don't have any trouble with  
21 that and I just want to go back to part 7 again  
22 because I remain confused. That is an affidavit  
23 in support of the plaintiffs CTC exemption. What  
24 I understood from the decision is that the CEC's  
25 involvement is limited exclusively to

1 administering the megawatt cap. The megawatts cap  
2 applies only to DWR ongoing costs. It has no  
3 relevance with respect to CTC. I don't really  
4 have a problem with it but when we were trying to  
5 parse out what belongs in this form and what  
6 doesn't, it seems that the CTC exemption has been  
7 in the past a utility function and I didn't see  
8 that the decision changed that but again I don't  
9 have a --

10 MS. HOUCK: On page 55 of the decision it  
11 says, well, only the order of the paragraphs is --  
12 but it does state CTC. It says, finally 1 to 3000  
13 megawatts cap is reached or the caps are reached  
14 on nonrenewable customer generation. All  
15 additional customer generation departing load  
16 installed thereafter will pay all CRF components,  
17 including the bond charge, the DWR, ongoing power  
18 charge, HCP and TCC and where --

19 MS. WESTBY: The CTC is a statutory exemption  
20 so even when the rest of this goes away the  
21 statute is still there and there's no cap on the  
22 statute.

23 MS. HOUCK: Throughout the decision when they  
24 discuss CRS though and they talk about what  
25 they're declining they've included CPC in the

1 definition of the CRS. Certainly I understand the  
2 statute doesn't go away but it was a component  
3 that was included within the definition of what  
4 would be included.

5 MS. WESTBY: It's not under the cap. It is a  
6 charge that is separate from the megawatt cap and  
7 in the decision on page -- let me find it -- 50  
8 something -- the megawatt cap it says on page 51  
9 applies to DWR ongoing power charges.

10 If you look at the second paragraph under  
11 Other Customer Generation.

12 The thing that's subject to a megawatt limit  
13 is the exemption of DWR ongoing charges.

14 And that was my understanding that the whole  
15 CEC function as it's described under -- beginning  
16 at page 51 relates to the ongoing EWR charges  
17 which is subject to the cap.

18 MR. TUNNICLIFF: It also goes on in  
19 conclusion of law in paragraph 16, the CEC is the  
20 logical entity that determine eligibility for  
21 qualifying for the exceptions to paying the CRS as  
22 specified in this order.

23 MS. WESTBY: And as specified in the order  
24 starting on page 51 it talks about ongoing DWR  
25 charges.

1 MR. TUNNICLIFF: Right.

2 MS. HOUCK: Now it's also important at 72  
3 that they clarify any penalty PT payments required  
4 by this decision under fines in Public Utilities  
5 Code 367(a), 1 through 6 and then they talk about  
6 how they're calculated.

7 I think if you go back to -- which is it --  
8 on page 67. I don't know if it's -- basically is  
9 says departing load exempt from CTC pursuant to  
10 statute blah blah blah shall not be required to  
11 pay scale CTC and that isn't under the same  
12 section that we're talking about megawatt cap.

13 MS. WESTBY: I think what may be confusing  
14 here now that I see it because I'm focusing on the  
15 larger ones but if you look at 8, paragraph 8,  
16 there's a tail CCC exemption given to ultra clean  
17 and low emissions that isn't under two seventy --

18 MS. HOUCK: And that's what we're looking  
19 at --

20 MS. WESTBY: So that's a narrow -- very  
21 narrow, yeah. In here it talks about 367.

22 So do not otherwise exempt from 372 and 374,  
23 then you administer that exemption up to the cap;  
24 is that correct?

25 MS. HOUCK: Yes.

1 MS. WESTBY: Okay.

2 MS. HOUCK: Yes.

3 MS. WESTBY: I get that.

4 MODERATOR TOMASHEFSKY: That clarification,  
5 does that require some change in the language in  
6 here?

7 MS. WESTBY: I think I would just make clear  
8 that the affidavit -- Edison's going to have to do  
9 one anyway wherever it comes but the affidavit  
10 applies only with customers who are not otherwise  
11 exempt from CCC by statute. So that form would be  
12 eliminated to that group of customers for your  
13 purposes.

14 Pardon?

15 Part 7.

16 So again, I expect that Edison, PG&E in San  
17 Diego will do one anyway for the other customers  
18 who are exempt under 372 or 4.

19 MODERATOR TOMASHEFSKY: Any other comments on  
20 that?

21 MR. DUGGAN: The resolution -- where we got  
22 to was brilliant, but it -- and it created another  
23 question in my mind with regard to part 7. As I  
24 understand it, we've got through on that  
25 discussion. You were saying that basically the



1 statute -- I presume 372 is the section --  
2 provides statutory exemption for certain things  
3 from CTC charges. As I recall, it's a CHP systems  
4 that are -- and then what you're looking at is the  
5 Energy Commission is -- are the components which  
6 are ultra clean and low emissions exemptions. So  
7 when I look at part 7 I don't see anything in the  
8 calculation here, when I look real quickly, that  
9 relates to anything other than the technologies  
10 that already exist. So if you're trying to use  
11 this form to determine that subset that you said  
12 of technologies that are exempt from CEC, then I  
13 don't see how this form helps you get there.

14 MS. WESTBY: I agree with you.

15 MODERATOR TOMASHEFSKY: I think we'll have to  
16 look at that and how it applies to Code 21367 and  
17 how it applies here. So we'll take a closer look.

18  
19 That takes care of the discussion on part 7.

20 MR. TUNNICLIFF: I think we're done on 8.

21 The last thing again is I don't know that we  
22 need -- I think we started with this talking about  
23 the attachment to the glossary. I think we need  
24 to make some clarifications on that in an initial  
25 statement that the Commission decision in CPUC or

1 the Public Utility Code or whatever is the  
2 governing body for these definitions and this is  
3 only -- or definitions -- and this is only a  
4 glossary to help along with this process, so --

5 So we do agree that there are some --  
6 probably some complex and some definitions that  
7 need to be better defined. There are glossary  
8 items that need to be better spelled out but again  
9 that will be in time.

10 MR. ROMANOWITZ: For your QF definition all  
11 you really have to do is take the wording out of  
12 the Code 228.5(a) and that defines it in simple  
13 terms, about the same number of words.

14 MODERATOR TOMASHEFSKY: Okay. Great.

15 Other comments?

16 Okay. So I guess what we'll all need to do  
17 is --

18 MR. SOLT: Kevin pointed out you go to the  
19 last page of 7 I guess it is? Page 11. The  
20 equation ends up at 42 and a half percent. Looks  
21 like it's inconsistent with the previous page and  
22 it's not using half of the thermal energy but all  
23 of it. Just a quick glance. It looks like a typo  
24 mistake or it should have been half TNUT.

25 MR. TUNNICLIFF: Well, that looks correct.

1           MR. SOLT: If you eliminate the whole section  
2 there would be no more comments here.

3           MODERATOR TOMASHEFSKY: Thank you, Chuck.  
4 You owe us some double A batteries.

5           With all of the discussion we've had here  
6 today I'll probably wrap it up here in a minute or  
7 two so we're only an hour behind what I promised  
8 when we started. Just three hours ahead of what  
9 we could have been so that's probably good.

10          I don't see a need to have the September 15th  
11 workshop. We're going to have the Renewables  
12 Committee hearing for the 24th so you can remove  
13 the September 15th date from your calendar if you  
14 thought you were going to be here for that.

15          What I would ask Dan and the rest of you  
16 folks, if you can make the changes to this and I  
17 don't know if you can get this within like the  
18 next week and then resubmit it. I'll send it out  
19 to the group. We can have some internal  
20 discussions amongst ourselves and get ready for  
21 the hearing on the 24th.

22          MR. TUNNICLIFF: And we'll work with you on  
23 those couple of sections that we need further  
24 clarifications. I think those are good points  
25 that we retain place holders until we get further

1 resolution on some of these conflicts that we have  
2 identified today that are beyond what we are taxed  
3 with.

4 MODERATOR TOMASHEFSKY: Yeah. And we may not  
5 share some of those quick iterations back and  
6 forth, but we'll definitely have a more finished  
7 product in advance of the 24th so we can have that  
8 for discussion in front of the committee.

9 We'll also attempt to raise various issues  
10 that we've come across in terms of this notion of  
11 providing PUC guidance with some outstanding  
12 issues that are going impact things in the future  
13 and we'll move from there.

14 Also as a general courtesy, if you feel like  
15 you're going to really provide some comments in a  
16 fairly critical -- could you let us -- give us a  
17 heads up so we don't have to hear it on October  
18 20th because we really are committed to trying to  
19 get process moving along and to the extent that  
20 parties wait until October 20th to really critique  
21 us, it will, without question, delay the process  
22 quite a bit and -- I mean, we were concerned about  
23 having a nine or ten minute delay in getting these  
24 rates adopted from April 3rd to now so we'd like  
25 to get this in place so if there's concerns, let

1 us know in advance, whether formally or informally  
2 and we'll start work on those issues and hopefully  
3 it will be done on the 22nd of October.

4 Any other closing comments?

5 Chuck, double A. Costco has 48  
6 batteries --

7 MR. SOLT: I'll bring some the next  
8 time.

9 The only thing to reiterate is that I still  
10 don't see why the application or the verifications  
11 going to the utility ought to be going to the CEC  
12 directly because their controlling the cap and  
13 they're making the ultimate determinations.

14 Forms look good, it's just a question of who  
15 is receiving them.

16 So I'm on the record again.

17 MR. MURLEY: Scott, I have a procedural  
18 question.

19 MODERATOR TOMASHEFSKY: Sure.

20 MR. MURLEY: You're talking about trying to  
21 stay on schedule and I just wonder if significant  
22 comments do come in that persuade you to change  
23 the rule as it presently stands whether that would  
24 initiate a new clock in terms of your  
25 requirements?

1 MS. HOUCK: It depends on the changes. If  
2 the changes aren't considered substantive and  
3 they're changes that everyone would have expected  
4 from participating in this process, it would be an  
5 additional 15 day review period. If they're  
6 substantially substantive it would have to be  
7 another 45 day review period before we could adopt  
8 the regulations after the changes were made.

9 MR. MURLEY: Am I correct in understanding  
10 that changes to the form do not -- you're trying  
11 to provide enough flexibility in the way you write  
12 the rules so the changes to the form can be  
13 virtually any time.

14 MS. HOUCK: Yeah. Changes to the form are  
15 separate than changes to the express terms that we  
16 put out for the regulations that forms we -- we  
17 try to incorporate language with the express terms  
18 that would allow us to change the forms and adapt  
19 whatever information would be needed, either  
20 depending on subsequent PUC decisions or other  
21 information that is deemed relevant. And the  
22 forms would likely go through another public  
23 process like this but they just need to be  
24 approved by the CEC and contain that specific  
25 information.

1           MODERATOR TOMASHEFSKY: So it's quite  
2 possible that we won't have this finalized by  
3 October 22nd, but the regs basically say, you  
4 develop a form, and so we are doing that.

5           MR. TUNNICLIFF: And also on that point too  
6 Doug made a -- from San Diego -- made a point  
7 earlier about ultimately these forms, if for  
8 utility use will be filed so that process comes  
9 into play too. So, you know, while we're going  
10 through the iterations, they ultimately -- we see  
11 them being file forms that go along with an advice  
12 letter, verification, et cetera.

13          MODERATOR TOMASHEFSKY: Kevin, you had a  
14 comment?

15          MR. DUGGAN: Scott, the question is can you  
16 explain or tell us what the process is that we'll  
17 be going through to gain that CPUC input into some  
18 of these issues that are outstanding and will we  
19 be able to see the questions and the answer then?

20          MODERATOR TOMASHEFSKY: I would suspect you  
21 would see it in some variation. We'll have some  
22 internal discussions, a couple of phone calls to  
23 start that -- start that process off. I think in  
24 terms of formalizing it any concerns and questions  
25 can certainly be voiced to UC as part of the

1 Commission's decision that we would presumably  
2 issue on 22nd of October. I think that from that  
3 standpoint we'd like some input in terms of how  
4 we're crafting it and potentially we can build  
5 that into the decision. So in any event at least  
6 it's some documented evidence that there is some  
7 concern that has been expressed about a number of  
8 areas that need further exploration by the PUC.  
9 Here is, you know, here is our take on what you  
10 should consider. So we'll commit to that, subject  
11 to someone saying that we won't commit to it.

12 (Laughter)

13 MODERATOR TOMASHEFSKY: Well, we'll all  
14 commit to that.

15 MR. DUGGAN: Thanks, Scott. That was very  
16 clear.

17 MODERATOR TOMASHEFSKY: My pleasure.

18 Any other comments, though?

19 I appreciate everyone coming and enjoy your  
20 trips home.

21 (Whereupon, at 12:58 p.m. the workshop was  
22 adjourned.)

23 --o0o--



## CERTIFICATE OF REPORTER

I, ALAN MEADE, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Workshop; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of September, 2003.

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